Filed - appl. Error

SUPREME COURT OF THE UNITED STATES.

No. ~~988.~~ 223/135

WILLIAM F. PURCELL, COMPLAINANT AND APPELLANT,

vs.

JAMES COLEMAN, AUSTIN L. ADAMS, GILBERT S. MINER, MARY VIRGINIA MINER, CHARLES WALTER, SECRETARY, &c., ASBURY LLOYD, AND EDWIN C. MORGAN.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

No. 338.

WILLIAM F. PURCELL, COMPLAINANT AND APPELLANT,

vs.

JAMES COLEMAN, AUSTIN L. ADAMS, GILBERT S. MINER, MARY VIRGINIA MINER, CHARLES WALTER, SECRETARY, &c., ASBURY LLOYD, AND EDWIN C. MORGAN.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

INDEX.

	Original.	Print.
Certificate of clerk to record	1	1
Bill	2	1
Exhibits A and B to bill	7	3
Answer of G. S. Miner	8	3
Petition of complainant for leave to amend bill	14	5
Order granting leave to complainant to amend bill	14	5
Answer of Austin L. Adams	15	5
Affidavit by complainant of non-residence of the defendants James Coleman and Virginia A. Miner	19	7
General replication	20	7
Order of publication	21	7
Depositions of complainant, viz: William A. Mulloy	24	8
Smith Minor	40	13
G. L. Giberson	45	14
James N. Ball	54	16
B. W. Ferguson	60	18
James McGraun	62	18
Peter F. Bacon	67	20
Deed of trust, Coleman and wife to trustees, Jackson Building Association	70	20
Deed of assignment to complainant by Jackson Building Association	76	22
Order, Jackson Building Association conveying to complainant	77	22
Coleman's assignment of stock to treasurer Jackson Building Association	78	23
Treasurer Lautman's assignment to complainant	79	23
Order that Coleman's answer be filed, dismissing cause as to Charles Walter, and setting cause for final hearing	79	23
Answer of James Coleman, and Exhibits A, B, and C	81	24
Description of land sold by Adams to complainant	103	30

	Original.	Print.
Exceptions to Coleman's answer	105	31
Answer of Charles Walter and exhibit	106	31
Petition of complainant for commission to take Walter's deposition	109	33
Order appointing commissioner to take Walter's deposition	109	33
Depositions of complainant, viz: Henry Yeatman	110	33
Charles Walter	118	36
G. L. Giberson	121	37
Wm. H. Langley	125	38
Decree dismissing bill, appeal to supreme court of District of Columbia	131	40
Decree, supreme court District of Columbia, in banc, confirming decree dismissing bill and appeal to Supreme Court United States	132	40
Petition, complainant for leave to file bill of review	135	41
Order supreme court District of Columbia, suspending proceedings under decree of affirmance	139	42
Depositions of complainant under bill of review, viz. Robt. Beale	140	43
P. F. Bacon	142	43
Wm. Gunton	143	44
Deed, Adams to complainant, exhibit to Gunton's deposition	145	45
Depositions of complainant under bill of review, viz: Michael Duffy	152	47
Margaret Scott	157,165	48, 50
John Collins	160	49
Order transmitting testimony to court in banc	168	51
Petition for bill of review submitted without argument	169	51
Decree, supreme court of District of Columbia, in banc, refusing bill of review	169	51

1 *Certificate of clerk of sup. c't of D. C. as to record.*

In the supreme court of the District of Columbia.

WILLIAM F. PURCELL
against
JAMES COLEMAN, AUSTIN L. ADAMS, GILBERT S. MINER, Mary Virginia Miner, Charles Walter, secretary, &c., Asbury Lloyd and Edwin C. Morgan, trustees, &c. } No. 1,706. Equity.

I, Return J. Meigs, clerk of the supreme court of the District of Columbia, do hereby certify that the writings annexed to this certificate are true copies of their respective originals on file and remaining of record in the clerk's office of said court and a complete record of the said cause.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of Washington, District of Columbia, this tenth day of December, 1864, and of the independence of the United States the 89th.

RETURN J. MEIGS, *Clerk.*

2 *Bill, filed* 1861, *April* 29*th.*

To the honorable judges of the circuit court of the District of Columbia, in equity sitting:

Humbly complaining, showeth unto your honors your orator, Wm. F. Purcell, that he was much annoyed by one James Coleman, (an Irishman,) in this District, for an exchange of property, he, Coleman, having a house and lot in this city on Capitol Hill, in a remote part, lot No. 4, square 782, fronting on Third street 70 feet and on C street 80 feet, for a farm belonging to your orator in Fairfax County, Virginia, near Bailey's Cross Roads, containing about fifty-two acres of valuable land, which your orator purchased of Austin L. Adams. About the 10th day of January last a trade was made by the said Coleman and your orator, and the possession and key delivered to your orator by the said Coleman, and the full payment admitted by him by receiving the property above named in Fairfax County, Virginia, he, said Coleman, having prior to said exchange diligently examined the farm and caused the title to be investigated by Alfred Moss, clerk of the court of Fairfax County, and a certificate given to said Coleman of the condition of the same, which he showed to several gentlemen and asked if that was the clerk's writing, and being answered in the affirmative he then closed the trade with your orator, and he, the said Coleman, requested your orator to prepare
3 both deeds at his reasonable convenience, which was to be properly executed by both parties, and that your said orator has tendered him, the said Coleman, a deed according to contract, and is now ready and willing to do so.

Your orator further avers that at the time the contract was made the said Coleman stated that the house and lot had been conveyed to Asbury Lloyd and Edwin C. Morgan, trustees for Jackson Building Association, for about one hundred dollars, and that was all the said house and lot was liable for to any source. Your orator, however, called on the secretary of the said building association, Charles Walter, the next day, and found that the statement of Coleman was untrue, that he had given a deed of trust, executed by himself and wife, for five hundred dollars, and had actually drawn the sum of two hundred and twenty-nine dollars on it, and, in addition thereto, that the said house and lot had been sold or forfeited for taxes. Your orator immediately called on Coleman and informed him of the true state of the case, and

desired to give back the house and lot and receive again his farm above referred to, but the said Coleman refused, and proposed to give a deed of trust on the farm to secure the incumbrances of the house and lot, which your said orator accepted.

4 Your orator further avers that several weeks thereafter, to his great surprise, about the time he had commenced improving the house for the purpose of placing a tenant in it, that said Coleman, in the night time, entered the second story the back way, by means of a ladder, and took from the back door the key on the inside of said house, and held forcible possession of the same until he was found guilty of the charge by two justices after hearing all the testimony and having the aid of two counsel. The said Coleman then delivered the key to your orator, and stated in the presence of several gentlemen that the change of property was fair; he knew its condition before trading in relation to its value and title; that it was advantageous to him, but that his wife had a few days previous refused to go with him to the said farm, and that was his only reason for his unlawful conduct, and that he would not do it again, and that he would pay all the cost in the case, which he has failed to do up to this time, to the injury of your orator.

Your orator would further ask leave to aver that notwithstanding the key, possession, and equitable title being with your orator, and that he had actually prepared a bill in equity to compel said Coleman and the trustees of the association to make him a deed for said house and lot, and was about to

5 file it, that to his great surprise it appeared that on the 9th March, 1861, one Gilbert S. Miner had entered into a conditional contract with said Coleman for the above house and lot, and obtained a deed for the same in the name of Virginia A. Miner, being the wife of said Gilbert S. Miner. The said Gilbert S. Miner, well knowing at the time he made the conditional contract with the said Coleman that your orator was entitled to the equitable estate in said house and lot, as well as the peaceable and lawful possession of the same, as your orator will prove by facts and circumstances of the most conclusive character; that about the 27th of March last the said Gilbert S. Miner, in order to get possession of said house, in the absence of your orator, prepared a false key and entered it, first having torn down the printed advertisement from the door showing the house was for rent by your orator. (A true copy of the same is herewith, marked "Exhibit A," and prayed to be taken as part of this bill.) And that your orator had again to incur the expense, loss of time, and annoyance of prosecuting the writ of forcible entry, and the said Miner was found guilty as charged and fined fifty dollars, which is due to the United States, and not your orator.

Your orator further avers that the said Gilbert S. Miner stated to your orator in the presence of several gentlemen that it was not necessary to make

6 him a party to the suit to compel the legal title; that if your orator succeeded against said Coleman, that said Coleman was to convey back to him or his wife the nine acres of land in Fairfax County which he had conveyed to said Coleman for the house and lot referred to, thereby showing that their pretended exchange was entirely depending on the right of your orator to the said house and lot, which is still in your orator's possession, but owing to the annoyance, by said Coleman and Miner, he has been unable to rent it.

Your orator further avers that as far back as 26th January last he filed a written notice with the secretary and trustees of the building association, as above stated, who held the legal estate of the said house and lot, that he had purchased said property and that the estate belonged to him, and to pay Coleman nothing more. This notice was duly recorded amongst the proceedings of the board. (A certified copy is herewith, marked "B," and prayed to be read as a part of this bill.)

Your orator further avers that it is impossible to place your orator and the said Coleman in the same situation they were in before they exchanged property, because the said Coleman not having given attention to the farm, a barn has been destroyed, and also much of the fencing as your has been informed and believes, and that he has been at expense in repairing the house and lot, &c.

Your orator prays that the said Coleman may be compelled to con-
7 vey the said house and lot to your orator by a sufficient deed, according to his contract with your orator, and that the deed for the same house and lot to Gilbert S. or Mary Virginia A. Miner by said Coleman be declared a nullity, and such other and further relief be granted as seem equitable in the premises. And your orator prays that the said James Coleman, Austin L. Adams, Gilbert S. Miner, Mary Virginia Miner, Charles Walter, secretary of the said building association, Asbury Lloyd and Edwin C. Morgan, trustees, as aforesaid, be made defendants to this bill, and that they answer each allegation on oath. And your orator prays the United States writ of spa. against the said defendants.

WM. F. PURCELL, *Solicitor for Complainants.*

EXHIBIT A.

For rent.—Enquire of William F. Purcell, No. 316 Delaware avenue, Capitol Hill.

EXHIBIT B.

To the president and board of directors of Jackson Building Association:

I hereby give you notice not to pay out any further loan to James Coleman on his deed of trust on Capitol Hill, as the said property is now in my possession and belongs to me, and shall ask a deed from the association for myself at the proper time.

26 Jan'y, 1861.

WILLIAM F. PURCELL.

8 *Answer of G. S. Miner, filed June 3rd, 1861.*

JAMES COLEMAN, AUSTIN L. ADAMS, GILBERT S. MINER, Virginia A. Miner, Charles Walter, Asbury Lloyd, Edwin C. Morgan,
ats.
WILLIAM F. PURCELL.
} In chancery, No. 1,706.

To the honorable the judges of the circuit court of the District of Columbia, sitting as a court of equity:

The answer of Gilbert S. Miner, one of the defendants, to the bill of complaint of William F. Purcell, complainant.

This defendant, saving and reserving to himself all benefits and advantage of exception which can or may be taken to the many errors, uncertainties, and other imperfections in the said complainant's said bill of complaint contained, for answer thereto, or to so much and such parts thereof as this defendant is advised is or are material for him to make answer unto, this defendant, answering, says that some time during the autumn of the year
1860 he became acquainted with James Coleman, who informed this
9 defendant that he (Coleman) desired to exchange his house and lot on Capitol Hill (in square 782, lot No. 4) for a small farm in Virginia. This defendant being authorized as agent to exchange a certain tract of land

near Alexandria, Virginia, for real estate in this city, accompanied the said Coleman to Virginia and showed him said farm, and as agent as aforesaid made him an offer of exchange, which said offer said Coleman took into consideration, and, with a trifling variation from the original proposition, a trade was completed by contract in the month of February, A. D. 1861. This defendant, immediately after the contract was made, proceeded to make a minute and careful examination of the title of said Coleman to said lot in Washington, (in square 782, lot No. 4,) and found the title all clear, with the exception of a deed of trust to secure to the Jackson Building Association a certain sum of money, and this defendant called upon the secretary of said association, Charles Walter, and ascertained the exact amount due and owing to said association by said Coleman, which amount was the same that said Coleman had informed this defendant he was owing to said association at the time of the negociation of the exchange of properties. This de-
10 fendant admits that on the 9th day of March, 1861, that a general warranty deed was made by said Coleman and wife to Virginia A. Miner in accordance with the aforesaid agreement, conveying to her, the said Virginia A. Miner, for her sole and separate use and benefit, the aforesaid house and lot. This defendant denies that any conditional bargain was ever made with the said Coleman for said house and lot, but, on the contrary, a bona fide purchase was made and a clear title in fee simple is or was to be given by said Coleman to said Virginia A. Miner free of all incumbrances and demands whatever.

This defendant further says that soon after the execution of said deed to said Virginia A. Miner he took possession of the premises (as this defendant was authorized to do as the property of his wife) in a peaceable, quiet, and proper manner, and that he met upon the street a locksmith, who unlocked the front door of said house and sold this defendant a key. Some days subsequently the said complainant demanded of this defendant the possession of said house and lot, which demand this defendant refused to comply with. The next day the complainant came to the premises with a large number of officers and two justices of the peace, viz: Messrs. Giberson and Fer-
11 guson, and in their presence again demanded possession of said house and lot, which this defendant again refused to grant, but being requested by said justices, he opened the door and allowed them to enter; the said justices immediately proceeded to try the question of possession, and, to the utter surprise and astonishment of this defendant, imposed a fine for withholding from the said complainant the possession of the said house and lot, and belonging to the said Virginia A. Miner by virtue of said deed. This defendant requested the said complainant to show his title to said house and lot, which he claimed he owned, and said complainant exhibited some papers, but none of them were signed by said Coleman nor of any consequence in reference to the support of his pretended claim of title. This defendant immediately called upon said Coleman and related to him the circumstances in reference to the claim set to said house and lot set up by said complainant, and was informed by said Coleman that said complainant had no claim upon said house and lot, but admitted that they had been negociating for an exchange of properties, and while the negociations were going on he, the said Coleman, learned that the farm in Virginia that
12 said complainant had offered him for said house and lot did not belong to the said complainant, and that he could not give him, said Coleman, a clear title thereto, and consequently he, the said Coleman, had declined closing any contract with said complainant.

This defendant soon after called upon Alfred Moss, the clerk of the county court of Fairfax County, to ascertain the situation of said complainant's title to the said tract of land in Fairfax Co., Va., which tract said complainant

informed this defendant he had given said Coleman for said house and lot, and this defendant was informed by said Moss that said complainant had no title for land on record in his said office; and furthermore, that the title of the said named tract of land was in one Austin L. Adams, and was largely incumbered with attachments, and also a deed of trust was hanging over, and lastly, that it had been sold for taxes; all of which incumbrances would have to be removed before a clear title would pass from Adams to said complainant.

This defendant denies that there was any other matter, cause, or thing in the said complainant's said bill of complaint contained material or
13 necessary for this defendant to make answer unto not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of this defendant. All which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most unlawfully sustained.

GILBERT S. MINER.

DISTRICT OF COLUMBIA, *Washington County, to wit:*

Before the subscriber, a justice of the peace in and for the county and district aforesaid, on this (3rd) third day of June, A. D. 1861, personally came Gilbert S. Miner, who has signed the aforegoing and annexed answer in my presence, and, having been first duly sworn, did say that the facts stated therein as of his own knowledge are true, and that those stated on information derived from others he believes to be true.

Given under my hand and seal this third day of June, A. D. 1861.

[SEAL.] P. McKENNA, *J. P.*

14 *Petition of complainant to amend bill, filed Nov.* 20, 1861.

WM. F. PURCELL *agt.* G. S. MINER *et al.* } No. 1,706, equity.

The complainant states that in his bill he has described by mistake Virginia A. Miner, one of the defendants, as Mary Virginia Miner, her true name being Virginia A. Miner; that she has not appeared or answered. He asks leave to amend his bill as to her name, and to have a new subpœna issued accordingly.

W. REDIN, *for Compl't.*

Order granting amendment, Nov. 20, 1861.

Let the amendment be allowed as prayed.
Nov. 20th, 1861.
By order of court.
Test: JNO. A. SMITH, *Clk.*

15 *Answer of Austin L. Adams, filed Oct.* 28, 1862.

The answer of Austin L. Adams to a bill of complaint exhibited against him and others in the circuit court of Washington County, District of Columbia, by William F. Purcell.

This respondent answers and says that it is true, as charged in complainant's bill, that he did sell to him a tract of land in Fairfax County, State of Virginia, near Bailey's Cross Roads, which this respondent purchased of

Samuel E. Smith, John Smith, and Barbary, said John Smith's wife, and they executed to him a complete deed for the same, which was recorded in the clerk's office of said county of Fairfax, Virginia, about the year eighteen hundred and thirty-four, (1834,) containing about fifty-two (52) acres; that he had owned and possessed the same from the time of the above purchase until he sold and conveyed to complainant a complete deed on the seventh day of June, A. D. eighteen hundred and fifty-nine, at which time he delivered to him possession of the same. At the time of the sale of said tract of land to said complainant it adjoined the lands of Dr. Barcroft, Caleb Reid, and Captain Page, lying on either side of the Columbia turnpike.

This respondent further says that the registration of the said deed
16 for the above land to complainant in the clerk's office of the said county of Fairfax, awaited the acknowledgment of his, the respondent's, wife, who would only have been entitled to dower during her life, if she had survived the respondent, who was willing at any moment to have signed the said deed; but living in a remote neighborhood, in Maryland, from justices at the time, it was not done; but that some months thereafter, in the year 1860, she died, and since then, for many months, respondent has been unable to hold communication with the clerk of Fairfax County, because of the rebellion, and, indeed, he has been informed, and believes, that some months since the clerk above referred to has taken the records away from their legitimate place of keeping with him into the Confederate army, in which he is an officer, and that there is now no lawful custodian for the county records, at Fairfax County, State of Virginia.

Respondent further states that James Coleman, a defendant in the above suit, came to him in Alexandria, Virginia, in February, 1861, after he had exchanged for the said land with complainant, and stated that he had examined the said farm in Fairfax County and the title to the same, and offered to purchase it from this respondent stating at the, time that he was pleased with it, but that this respondent refused, and informed him, said Cole-
17 man, that he had sold it to said complainant and had received a consideration for the same, to which said Coleman made no reply, looking much confused.

This respondent further answers and says that the answer in this cause of Gilbert S. Miner, in which he states that he was informed by Alfred Moss, esq., clerk of Fairfax court, that the farm already referred to and in question was incumbered by a mortgage or deed of trust, is false, and that he, Minor, knew it at the time he so stated it, because he, the said Minor, had previously seen a written statement, made by said Alfred Moss, showing that the only deed or mortgage on the said farm had been paid off, and that he, the said Moss, was trustee in the said deed.

This respondent further says that there was no valid liens on said farm at the time he sold it to complainant, affecting said complainant's title, as he is advised, and if there had been this respondent was, and now is, ready and able to meet them and discharge them from any source whatever.

This respondent further says that he sold the farm in question to complainant, and conveyed to him a complete title at the time already set forth, and received a consideration for the same against all the world, and that if any further deed is necessary to said complainant, or any other per-
18 son, that this honorable court might direct, he is ready and willing to make it.

Having answered all that is advised as material for him to answer, asks to be dismissed with costs.

AUSTIN L. ADAMS.

DISTRICT OF COLUMBIA, *Washington County, to wit:*

On this 23d day of August, in the year of our Lord one thousand eight hundred and sixty-two, before me, the subscriber, a justice of the peace in and for the said county, personally appeared Austin L. Adams, whose name is signed to the aforegoing answer, and made oath in due form of law that the facts therein stated, so far as they depend on his own knowledge, are true, and that the facts therein set forth as derived from the information of others he believes to be true.

GILBERT L. GIBERSON.

19 *Affidavit of compl't as to non-residence of James Coleman and Virginia A. Miner.*

In the court of chancery of the District of Columbia.

WILLIAM F. PURCELL
vs.
JAMES COLEMAN AND OTHERS.

On this 22d day of October, A. D. 1862, before me, the subscriber, a justice of the peace in and for the said county, personally appeared the Hon. William F. Purcell, the plaintiff above named, and made oath in due form of law that the above-named defendant, James Coleman, and Virginia A. Minor, wife of Gilbert S. Minor, are, as he is credibly informed and verily believes, non-residents, living in the State of Virginia. And this affiant further swears that some months since he was in the act of taking steps to have a publication made against the said absent defendants, and enquired of John A. Smith, clerk of the court aforesaid, as to the form of procedure and was informed by him that the said Gilbert S. Miner had few days previously thereto had a subpœna in chancery to get the appearance of the said absent defendants, which would have saved expense and procured an early appearance of the said absent defendants, which this affiant was anxious to have done; but it appears that the said Gilbert S. Minor has for some cause unto this affiant utterly failed in the premises up to the present time.

Sworn to before me this 22d October, 1862.

GILBERT L. GIBERSON.

20 Endorsed on G. S. Miner's answer: "General replication to this answer.
(Signed) W. R."

Compl't's general replication, filed at Nov. rules, 1862.

21 *Order of publication, filed Nov. 1st,* 1862.

WILLIAM F. PURCELL
against
JAMES COLEMAN, GILBERT S. MINER, VIRGINIA A. Miner, and others. } In chancery, No 1,706.

The bill on the above cause states, in substance, that on or about the 10th of January, 1861, the complainant agreed with said Coleman for the exchange of his (the complainant's) farm in Fairfax County, Virginia, for said Coleman's house and lot, being lot No. 4, in square No. 782, in the city of Washington; that such exchange was consummated and complainant was placed in possession of said house and lot, and is still in possession thereof; that afterwards, namely, in March, 1861, the other defendants, Miner and wife, with full knowledge and notice of complainant's purchase of said house and lot, obtained a deed from said Coleman of the same in the name

of said Virginia A. Miner; and the object of the bill is to obtain a specific performance of said contract and a conveyance of said house and lot to said complainant; but, inasmuch as said Coleman and said Virginia A. Minor reside in the State of Virginia, it is therefore, on motion of complainant's solicitor, ordered by the court, this 1st day of November, 1862, that notice of the substance and object of said bill be given to said James Coleman and Virginia A. Miner by publishing a copy of this order once a week for six successive weeks, and that said defendants be warned to appear at the rules to be held for this court on the first Monday of April next, and then and there to answer said bill; otherwise, that the same will be taken for
22 confessed against them. The said notice to be published in the National Intelligencer, and the first advertisement to be inserted at least four months prior to the said day of appearance.

By order of court.

Test: JNO. A. SMITH, *Clerk.*

OFFICE OF THE NATIONAL INTELLIGENCER,
Washington, February 5th, 1863.

We hereby certify that the advertisement of which the annexed is a copy was published in the National Intelligencer once a week for six successive weeks, commencing on the 15th day of November, 1862.

For GALES & SEATON,
EDW. S. FLETCHER.

Depositions of complainant filed.

WILLIAM F. PURCELL
v.
JAMES COLEMAN, GILBERT S. MINER, VIRGINIA A. MINER, *et al.* } In chancery. No. 1,706.

At one o'clock p. m., on this 24th day of December, A. D. 1862, before me, Samuel L. Phillips, a standing examiner in chancery, and commissioner appointed by the circuit court of the District of Columbia, appeared Wm. F. Purcell, complainant, Gilbert S. Miner, one of the defendants on behalf of himself and as solicitor on behalf of Virginia A. Miner, and Edwin C. Morgan, solicitor on behalf of the Jackson Building Association, for the purpose of taking testimony in the above-entitled cause in pursuance of a notice this day filed with me by William F. Purcell, compl't, and marked Exhibit S. L. P., No. 1, and hereto annexed.

And at two o'clock p. m. of the same day, the said parties being present, the said Wm. F. Purcell produced one William A. Mulloy as his witness, and the said Mulloy, first having been duly sworn according to law
24 did make answer in the words following to the following interrogatories and cross-interrogatories.

Answer of William A. Mulloy.

1 interrogatory. Do you know James Coleman and William F. Purcell, complainants?

Answer. I do; for many years.

2 interrogatory. Did said Coleman make any statements to you about the month of January, 1861, in relation to his having exchanged his house and lot on Capitol Hill for a farm with said complainant in Fairfax County, Virginia, near Bailey's Cross Roads? If so, state minutely what the statements of said Coleman were in regard to the title, value, and whether he or said Coleman was satisfied with the said farm, or not, that he had received from said Purcell ir exchange for his said house and lot.

Answer. On or about January, 1861, I was then watchman at the Capitol. James Coleman frequently came to our watch-house at night about the month referred to. He stated that his wife and himself had been upon said farm and that he thought he had made a most excellent trade; that they should move in a very short time. In conversation, either on the
25 night now referred to or a short time previous, he stated that the property in Washington would be worth nothing. A gentleman by the name of James M. Ball was present, also one of the watch, at this conversation. I have reference to the trade between himself and Judge Purcell.

3rd interrogatory. Did said Coleman, or not, in any of these statements alluded to say that he had examined the said farm minutely and the title to the same prior to his making said trade, by writing to the proper clerk of the Fairfax County court and having received an answer before trading with said complainant?

Answer. He did. He stated that he had been over every foot of the ground and that some of it was little thin but soon could be gotten up. He stated that he had written to the clerk of the court and had received an answer of which he either stated that the title was unquestionable or that he was satisfied with the same.

26 4th interrogatory. Are you to be understood in your last answer as having said that said Coleman admitted that he had received all the satisfactory information above mentioned as to the quality and title to said land before trading with said complainant.

Answer. I do.

5th interrogatory. Had you any further conversation with said Coleman a few weeks thereafter in regard to said property, the day on which he was ejected by two magistrates for having entered the house? If so, what was that conversation? Please state it at length.

Answer. I had. Some weeks after, as I supposed, the consummation of trade, a gentleman came to my house and stated that Judge Purcell wished me to come over to the house referred to. I went with that gentleman; I then found for the first time the purpose for which I was sent for; because I was a magistrate, as stated to me. I talked there with Judge Purcell.

(Mr. Miner here interposed an objection to any statement made by
27 Judge Purcell being given in evidence, and requested it to be noted.)

I then went upon the premises, that is to say the lot. I met Mr. Coleman; I remarked to him: what in the world was the matter! He then stated that he had moved back again. I said to him: "Why, Jimmy, you told me you had traded." He said: "I did; but when a man's wife is not satisfied, what in the devil can a man do?" I then left. As to my own personal knowledge of what was done on that day, or any other day, by justices of the peace, I know nothing.

6th interrogatory. What inference did you draw from the remark made by said Coleman when he stated, W. A. Mulloy, "What in the devil could a man do when his would not go with him, or stay with him," as above stated? wife

Answer. My impression was at the time that he, Coleman, was controlled by the will of his wife.

7th interrogatory. Were you formerly a member of the city council, and are you a justice of the peace, and at this time acting deputy marshal in this District?

28 Answer. I was in the city council for five years; now a justice of the peace, and have been for six or seven years; now acting as deputy marshal under the direction of Deputy Marshal Phillips.

The witness was then asked the following cross-interrogatories by Gilbert S. Miner, esq.:

1st cross-interrogatory. Do you know where James Coleman resided in the month of January, 1861? If so, please state in what part of the city and number of the house.

Answer. To the best of my recollection he either lived in the house with Joseph R. Birch, or in a portion of the adjoining house, of which said Birch was agent; that is between 2nd and 3rd streets east, and I think on D street north; the number of the house, or either of them, I do not know.

2nd cross-interrogatory. Who resided in the house in controversy
29 at that time, and how far distant from the place where said Coleman resided to the said house in controversy?

Answer. The house in controversy is on the corner of C and 3rd. The house where Coleman resided, to the best of my knowledge, was on D street north, near the centre of the square. Who then lived in the house in controversy, if any one did, I know not. I reside on 3rd street, near East Capitol, some four squares from the place.

3rd cross-interrogatory. How long had said Coleman resided in the house of Joseph R. Birch prior to that time?

Answer. That is more than I am able to say; I know not.

4th cross-interrogatory. Please state the time according to the best of your recollection.

Answer. I feel satisfied that it was more than a week; I cannot say whether it was a month or not.

30 5th cross-interrogatory. Where did said Coleman reside before that time?

Answer. He resided in a house built by himself, on the corner of 3rd and C streets north.

6th cross-interrogatory. Did he move directly from the house in controversy to the house of Joseph R. Birch?

(William F. Purcell here objected to the next above interrogatory, on the ground that the witness was introduced and sworn by complainant, and the defendant cannot cross-examine on matters not introduced by the examination in chief, and requested it to be so noted.)

Answer. I cannot say, for the reason that Birch, Coleman, and myself were all watchmen, and that we talked the matter over frequently as to the moving and removing; I only know that he did live in the house or adjoining house of said Birch, and that I saw on the day referred to
31 the furniture returning to the house in question.

7th cross-interrogatory. What day was that you saw the furniture returning to the Birch house?

(Mr. Purcell objected, the same as above.)

Answer. I never saw it returning to the Birch house, and have not stated so; I did state that I saw the furniture going to the house in question, meaning the house that Coleman formerly lived in and owned. That was the day I was sent for as a justice of the peace, the date of which I cannot tell, but to the best of my recollection it was in the latter part of January, 1861.

8th cross-interrogatory. In the conversation you had with Coleman did you not understand from him that he expected to get a clear and unencumbered title from the complainant in case they exchanged property?

(Wm F. Purcell here objected to the last above interrogatory upon
32 the same grounds as above stated, and requested it be so noted.)

Answer. I certainly did; because he remarked that he had written to the register or clerk of Fairfax County court for the purpose of obtaining the very information as he stated to me, I think, prior to the time he said he had received a letter with which he was satisfied as to the title.

9th cross-interrogatory. About what day of the month of January, 1861, did this conversation take place, Wm. A. Mulloy?

(Wm. F. Purcell here objected, on the same grounds as above.)

Answer. As to the day of the month I cannot state, but my impression is it may have been in December, 1860, but if so, the latter part of that month.

10th cross-interrogatory. Have you ever had any conversation with
33 Judge Purcell in reference to this controversy? If so, state how many times and where.

Answer. I have, I think, perhaps as many as four times; I think soon after the affair Judge Purcell spoke to me twice; how near together I cannot state; a few days ago, perhaps this very week, he spoke to me in relation to this affair, and also to-day.

11th cross-interrogatory. When you were called to the premises of Coleman, on Capitol Hill, as stated in your examination in chief, was Coleman's wife in the house?

Answer. Coleman so stated to me.

(Wm. F. Purcell here objected to the answer, because it is hearsay testimony, and requested it to be so noted.)

12th cross-interrogatory. What were you called there for, and who else was summoned there?

Answer. A messenger stated to me that Judge Purcell wished me
34 to come over to the house in question; I went there; I found Judge Purcell there; he wished me to issue a warrant against the parties for breaking into the house in controversy; I declined, on the ground, as I believed, the want of jurisdiction; I suggested to the messenger or Judge Purcell to send for another magistrate that we might act in conjunction in the premises; a messenger was dispatched for another justice of the peace; Judge Purcell went from the premises, how far I cannot say, and after the conversation with Coleman and myself I left the place, with the intention of not returning, because they were both friends of mine, and I wished to have nothing to do with it.

13th cross-interrogatory. Was Mr. Coleman in possession of his, Coleman's, house at that time?

(Wm. F. Purcell objected to the above interrogatory as being leading and already answered, and requested it to be so noted.)

Answer. He was not in the house referred to in question.

35 14th cross-interrogatory. What warrant was necessary that it required two magistrates to issue?

(Wm. F. Purcell here objected to the above interrogatory.)

Answer. In my statement above I did not state that I saw keys purporting to be the keys of the house in question in the possession of Judge Purcell; it was a mere statement to me on the part of Judge Purcell that those parties, that is James Coleman, had broken into his house; Coleman's position, if in the house at all—I mean in possession of the house by agent—it then would require, in my judgement, two magistrates to issue a warrant of restitution.

15th cross-interrogatory. What month was this, and what day of the month was it?

Answer. I state that I have answered it twice, it was in January, 1861, what date I cannot state.

36 16th cross-interrogatory. Can you not state whether it was in the first of January, 1861, or the last?

Answer. My impression is that it was between the 5th and 25th of the month, I cannot come nearer.

17th cross-interrogatory. In this conversation at night in the presence of Mr. Ball, alluded to, did not Coleman converse as though he had implicit

The witness was then asked the following cross-interrogatories by Gilbert S. Miner, esq.:

1st cross-interrogatory. Do you know where James Coleman resided in the month of January, 1861? If so, please state in what part of the city and number of the house.

Answer. To the best of my recollection he either lived in the house with Joseph R. Birch, or in a portion of the adjoining house, of which said Birch was agent; that is between 2nd and 3rd streets east, and I think on D street north; the number of the house, or either of them, I do not know.

2nd cross-interrogatory. Who resided in the house in controversy
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Answer. The house in controversy is on the corner of C and 3rd. The house where Coleman resided, to the best of my knowledge, was on D street north, near the centre of the square. Who then lived in the house in controversy, if any one did, I know not. I reside on 3rd street, near East Capitol, some four squares from the place.

3rd cross-interrogatory. How long had said Coleman resided in the house of Joseph R. Birch prior to that time?

Answer. That is more than I am able to say; I know not.

4th cross-interrogatory. Please state the time according to the best of your recollection.

Answer. I feel satisfied that it was more than a week; I cannot say whether it was a month or not.

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Answer. He resided in a house built by himself, on the corner of 3rd and C streets north.

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Answer. I never saw it returning to the Birch house, and have not stated so; I did state that I saw the furniture going to the house in question, meaning the house that Coleman formerly lived in and owned. That was the day I was sent for as a justice of the peace, the date of which I cannot tell, but to the best of my recollection it was in the latter part of January, 1861.

8th cross-interrogatory. In the conversation you had with Coleman did you not understand from him that he expected to get a clear and unencumbered title from the complainant in case they exchanged property?

(Wm F. Purcell here objected to the last above interrogatory upon
32 the same grounds as above stated, and requested it be so noted.)

Answer. I certainly did; because he remarked that he had written to the register or clerk of Fairfax County court for the purpose of obtaining the very information as he stated to me, I think, prior to the time he said he had received a letter with which he was satisfied as to the title.

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(Wm. F. Purcell here objected, on the same grounds as above.)

Answer. As to the day of the month I cannot state, but my impression is it may have been in December, 1860, but if so, the latter part of that month.

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33 Judge Purcell in reference to this controversy? If so, state how many times and where.

Answer. I have, I think, perhaps as many as four times; I think soon after the affair Judge Purcell spoke to me twice; how near together I cannot state; a few days ago, perhaps this very week, he spoke to me in relation to this affair, and also to-day.

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Answer. Coleman so stated to me.

(Wm. F. Purcell here objected to the answer, because it is hearsay testimony, and requested it to be so noted.)

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Answer. A messenger stated to me that Judge Purcell wished me
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Answer. I state that I have answered it twice, it was in January, 1861, what date I cannot state.

36 16th cross-interrogatory. Can you not state whether it was in the first of January, 1861, or the last?

Answer. My impression is that it was between the 5th and 25th of the month, I cannot come nearer.

17th cross-interrogatory. In this conversation at night in the presence of Mr. Ball, alluded to, did not Coleman converse as though he had implicit

confidence in Judge Purcell and that he believed that Judge Purcell could give him a clear title of his said farm in Fairfax County, Va., in case they completed a trade or exchange of property.

(Wm. F. Purcell here objected to the last interrogatory.)

Answer. I cannot say that Coleman did in the first place, because he stated he had written to the clerk or register of the county of Fairfax, Va., and afterwards, as I stated before, that he had received a letter from the
37 clerk, satisfying him that the title was good. The second conversation might have been three or four nights afterwards or even more; Coleman's duty was on so many nights as we were as watchmen. When our nights hit, he generally came to our watch-house.

18th cross-interrogatory. Did he show you that letter?

Answer. I think not; I am sure I did not read it.

The witness was here re-examined by Wm. F. Purcell, esq.

1st interrogatory. What did you mean when you stated in answer to a cross-interrogatory in relation to issuing a warrant to arrest Coleman at the time he was charged with breaking into the house in question when you stated that it was a mere statement of Judge Purcell?

38 Answer. I meant just this, Judge Purcell and myself (W. A. Mulloy) were standing on the corner of C street and 3rd, in front of the premises in question, and there being no form of oath and a mere request, I then suggested the calling of another magistrate, as stated above. Also, the magistrates here never issue warrants here of a criminal nature without a formal affidavit.

The witness was here examined again by Mr. Miner.

1st interrogatory. Did you not consider Mr. Coleman up to that time an upright and honorable man and good citizen?

Answer. I certainly did, as I would not have associated with him if he had have been otherwise.

The witness was here examined again by Mr. Purcell.

1st interrogatory. Although you may have considered him an up-
39 right man, as above stated, up to that time, has your mind been changed as to his integrity and truth since the time alluded above from your own personal conflicting conversations with him and conduct in relation to this matter, and your information derived from others in the neighborhood where he last lived?

Answer. I can only speak for myself—it has.

W. A. MULLOY.

At half-past five o'clock p. m., the further examination was adjourned until the next day the 25th of December, 1862.

DEC. 25th, 1862.

This day being Christmas day and the parties not appearing, the further examination of witnesses was adjourned until the 26th day of December, 1862.

DEC. 26th, 1862.

At half-past twelve o'clock p. m., on this 26th day of December,
40 1862, before me, Samuel L. Phillips, an examiner, etc., appeared Wm. F. Purcell, esq., complainant, and Edwin C. Morgan, solicitor on behalf of the Jackson Building Association, for the purpose of taking testimony in the above-entitled cause, in pursuance of the adjournment last mentioned above; and at the same time the said Purcell, compl't, produced one Smith Minor, esq., as his witness, and the said Minor, first having been duly sworn according to law, did make answer in the words following to the following interrogatories.

Examination of Smith Minor.

1 interrogatory. Are you acquainted with the quality and quantity of a tract of land in Fairfax County, Va., formerly owned and possessed by Austin L. Adams at one time, near Bailey's Cross Roads, on either side of the Columbian turnpike which leads to Washington City, about six or seven miles from this city? If so, please state how large and what was its probable value, or what it would have sold for in your opinion about the latter part of 1860 and the earlier parts of 1861, on fair and reasonable
41 cash and credits.

Answer. I was acquainted with the land, because it adjoined me on three or four sides. I have known the land nearly all my life, certainly from the year 1837; Austin L. Adams had been living there several years previous. I lived adjoining with Adams from 1839 to 1849. From all that I could learn during that time he owned and possessed that land. He often said that he bought it from Messrs. Smith. I am acquainted with the quality of the land. I think it was a pretty fair quality of land, as good as any about there. I have been often told by Adams that it contained about fifty acres. The land in that neighborhood, as the persons living there told me, was being offered and sold at sixty and some as high as eighty dollars an acre in the year 1860.

2nd interrogatory. Did you ever hear the title of Adams to the land questioned during all the time of which you speak in the previous interrogatory?

42 Answer. I do not recollect that I ever heard anything said against his right or title to the land from any source.

3rd interrogatory. Do you know whether said Adams sold the said farm to any person about the year 1859? If so, to whom?

Answer. I heard said Adams say, in the presence of Judge Purcell, that he had at that time sold the said farm to Judge Purcell.

4th interrogatory. What has always been the reputation of said Adams in his business dealings for truth and veracity?

Answer. I never heard anything derogatory to the character of said Adams. He has always been considered by me as a highly honorable man.

43 5th interrogatory. Do you know whether said Adams's wife is living or dead? If so, when did she die?

Answer. Said Adams told me in the year 1860 that his wife had just then lately died.

6th interrogatory. Is said Adams, from your own knowledge and his reputation, perfectly responsible for any reasonable obligation that he would enter into?

SMITH MINOR.

Answer. I should think so.

7th interrogatory. Have you been acquainted for many years with Alfred Moss, esq., clerk of the Fairfax County, Va., court? If so, was he not considered a man of great intelligence and high integrity?

Answer. I have known him from a boy, and that has always been his reputation.

44 8th interrogatory. Is it not universally known that in the beginning of the present war that said Moss carried the records of said county and court to some place unknown in the South?

Answer. I have understood so.

9th interrogatory. Is not the location of the said farm considered exceedingly healthy, and was there not a reasonable quantity of wood and a great

quantity of rock, valuable for building purposes and fencing, on said farm at that time?

Answer. Yes.

10th interrogatory. How old are you?

Answer. I am now in my seventy-second year.

Subscribed this 26th day of Dec., 1862.

SMITH MINOR.

45 After the examination of said Smith Minor, the said Wm. F. Purcell, compl't, produced one Gilbert L. Giberson as a witness, and the said Giberson, first having been duly sworn according to law, did make answer in the following words to the following interrogatories.

Examination of Gilbert L. Giberson.

1st interrogatory. Did you and Justice Ferguson act in a criminal proceeding against James Coleman about the month of January, 1861, said Coleman holding forcible possession to a house and lots on Capitol Hill, being the property in question, said Coleman having entered the house through a back window on the second story, by hoisting or breaking said window, and by the aid of a ladder?

Answer. We were called in the first place to inquire of and concerning a forcible entry and detainer in the house above described. We repaired to the said house and found the said James Coleman and wife and some one else holding forcibly. We acted upon the case by fining the party
46 Coleman fifty dollars, and postponed the case for further consideration until next day. We finally committed him to jail for the non-payment of the fine.

2nd interrogatory. During the progress of this trial did complainant charge Coleman for having uttered falsehoods or misrepresentations in regard to the exchange of his house and lot for the farm in Fairfax County, Va.?

Ans. The complainant did so charge him.

3rd interrogatory. Was not the said charge of falsehood against Coleman that he (Coleman) had falsely stated the transaction since the trade by stating to some persons that the land traded to him by said compl't in Fairfax County was incumbered, and that he (Coleman) did not know it at the time he traded for it and delivered complainant possession of said house and lots? If so, what was Coleman's reply?

Answer. I think that was the charge. The complainant stated to
47 him that he (Coleman) had examined the title to the property, and had Mr. Moss's certificate that the title was satisfactory. This was before the trade. Coleman admitted that he had examined the title prior to the trade, and had Mr. Moss's certificate or letter that the title was satisfactory, and with which he (Coleman) was satisfied, but that his wife did want to go on the place.

The further examination of Gilbert L. Giberson was postponed by the examiner until the hour of half-past two o'clock, on the 27th day of December, 1862.

DECEMBER 27th, 1862.

At the hour of half-past two o'clock p. m., on this 27th day of December, 1862, the complainant, Wm. F. Purcell, appeared before me, as well as Edwin C. Morgan, solicitor as aforesaid, and thereupon the further examination of said Gilbert S. Giberson, esq., was continued by said complainant.

Examination of Gilbert L. Giberson.

4th interrogatory. Did you not distincly understand said Coleman to admit that after he had so examined the land and title to the same and
48 being satisfied with it, that he then had traded said house and lot to said complainant and delivered to him possession of the same, and had received the said farm in question in payment and had taken possession of the same, and that his only excuse for his then attempting to retract was the fault of his, Colemen's, wife being unwilling to live on said farm with him.

Answer. That was distinctly admitted by him, Coleman.

5th interrogatory. How was it admitted by said Coleman and proven on that occasion, to wit, the trial aforesaid, that he had so improperly entered said house and premises after having given possession as above described?

GILBERT L. GIBERSON.

Answer. It was proved that he entered through the second-story window, getting up by a ladder, between the hours of 8 or 9 o'clock p. m., and held forcible possession.

49 6th interrogatory. You having been twice called there to view the house and premises, and detained there some time, would you think that at that time two thousand dollars for the whole premises was a high or cheap price?

Answer. I think two thousand dollars was a high price for the whole premises.

7th interrogatory. From what you saw of Coleman do you not consider him to be a shrewd man and capable of taking care of himself in making contracts?

Answer. I then considered him, and still do, a sharp, shrewd Irishman, capable of making a good contract in any case he was at all interested in.

8th interrogatory. Were you not again called to said premises about two months thereafter to inquire into similar conduct of another person? If so, state who that person was, and what took place on that occasion?

50 Answer. I was at about that time called to the same place in the evening of the day, and there found Gilbert S. Miner holding forcibly. It being late in the evening Justice Ferguson and myself postponed the case until the next day, at 11 o'clock a. m., when Judge Purcell appeared as prosecutor against said Miner. The case was fully argued by said Miner and Judge Purcell, and witnesses were introduced. Justice Ferguson and myself considered the focible entry and detainer as fully proved, the said Miner having entered by procuring a brass key to be filed to suit the lock. We fined him fifty dollars, and issued a mittimus to the offi cers in charge, in his presence, who took him into custody. We subsequently, at the instance of Judge Purcell and the said Miner, reduced the fine to ten dollars, and with the approbation of the district attorney. Judge Purcell interfered in the matter because he was appealed to by said Miner.

9th interrogatory. Did said Miner during the day of said trial pre-
51 tend to set up a purchase from above-named James Coleman as some excuse for his having so improperly entered said house with said false key? and if so, what did he state?

Answer. I recollect he claimed title to the premises under an alleged purchased from James Coleman, but exhibited no evidence of titles.

10th interrogatory. Did said Miner admit in the same conversation to questions propounded to him by said complainant that although he, Miner, alleged that or he or Virginia A. Miner, his wife, had purchased of said Coleman the premises in question, that he, said Miner, knew that said Coleman had previous to his alleged purchase traded the property to said complainant,

quantity of rock, valuable for building purposes and fencing, on said farm at that time?

Answer. Yes.

10th interrogatory. How old are you?

Answer. I am now in my seventy-second year.

Subscribed this 26th day of Dec., 1862.

SMITH MINOR.

45 After the examination of said Smith Minor, the said Wm. F. Purcell, compl't, produced one Gilbert L. Giberson as a witness, and the said Giberson, first having been duly sworn according to law, did make answer in the following words to the following interrogatories.

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2nd interrogatory. During the progress of this trial did complainant charge Coleman for having uttered falsehoods or misrepresentations in regard to the exchange of his house and lot for the farm in Fairfax County, Va.?

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47 him that he (Coleman) had examined the title to the property, and had Mr. Moss's certificate that the title was satisfactory. This was before the trade. Coleman admitted that he had examined the title prior to the trade, and had Mr. Moss's certificate or letter that the title was satisfactory, and with which he (Coleman) was satisfied, but that his wife did want to go on the place.

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DECEMBER 27th, 1862.

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8th interrogatory. Were you not again called to said premises about two months thereafter to inquire into similar conduct of another person? If so, state who that person was, and what took place on that occasion?

50 Answer. I was at about that time called to the same place in the evening of the day, and there found Gilbert S. Miner holding forcibly. It being late in the evening Justice Ferguson and myself postponed the case until the next day, at 11 o'clock a. m., when Judge Purcell appeared as prosecutor against said Miner. The case was fully argued by said Miner and Judge Purcell, and witnesses were introduced. Justice Ferguson and myself considered the focible entry and detainer as fully proved, the said Miner having entered by procuring a brass key to be filed to suit the lock. We fined him fifty dollars, and issued a mittimus to the offi cers in charge, in his presence, who took him into custody. We subsequently, at the instance of Judge Purcell and the said Miner, reduced the fine to ten dollars, and with the approbation of the district attorney. Judge Purcell interfered in the matter because he was appealed to by said Miner.

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Answer. I recollect he claimed title to the premises under an alleged purchased from James Coleman, but exhibited no evidence of titles.

10th interrogatory. Did said Miner admit in the same conversation to questions propounded to him by said complainant that although he, Miner, alleged that or he or Virginia A. Miner, his wife, had purchased of said Coleman the premises in question, that he, said Miner, knew that said Coleman had previous to his alleged purchase traded the property to said complainant,

but that he relied on said Coleman not having made said complainant a deed for said premises?

Answer. I think that was the sum and substance of his admission on that occasion.

52 11th interrogatory. Have you any doubt about this above having been his admissions?

Answer. I have not.

12th interrogatory. Do you recollect that Miner stated it as his opinion that if Coleman had even made complainant a deed, it not having been recorded it would not prejudice the title of a third party buying, although said third party might have known of the trasaction?

Answer. I have an indistinct recollection of it.

Subscribed as for correct this 27th day of Dec., 1862.

GILBERT L. GIBERSON.

53 DEC. 29th, 1862.

The examiner being too unwell, the further examination of the witnesses was postponed until Dec. 30th, 1862, at 12 o'clock m.

DECEMBER 30th, 1862.

The examiner being still too unwell the further examination of the witnesses was postponed by him until Dec. 31st, 1862, at 12 o'clock m.

DEC. 31st, 1862.

The examiner being still too unwell to attend, the further examination of the witnesses was postponed by him until January 1st, 1863, at 12 o'clock m.

JANUARY 1st, 1863.

The examiner being still too unwell to attend, the further examination of the witnesses was postponed by him until January 2d, 1863, at 12 o'clock m.

JANUARY 2d, 1863.

On this 2d day of January, 1863, before me, the subscriber, a standing examiner in chancery, appeared William F. Purcell, complainant, and Edwin C. Morgan, sol. on behalf of the Jackson Building Association, for the purpose of taking testimony of the above case. And at the same time

54 the said complainant produced one James N. Ball as his witness, and who, having been first duly sworn according to law, did answer in the words following to the subjoined interrogatories.

Examination of James N. Ball.

1st interrogatory. What office do you hold?

Answer. I am now an officer on the Capitol extension. I was formerly a clerk in the Patent Office. I have been in the employment of the government since the year 1854.

2d interrogatory. Did you have any conversation about the month of January, 1861, with James Coleman, who was at the Capitol as watchman of the grounds, about an exchange of his, Coleman's, house and premises on Capitol Hill with complainant, for the said complainant's farm in Fairfax County, Va., near Bailey's Cross Roads? If so, state minutely the conversation.

55 Answer. About that time Mr. Coleman called at my office, and stated that he had traded his house and premises with Judge Purcell for his farm in Fairfax County, Va., near Bailey's Cross Road. He said that he expected to move on it in a few days. I asked him if he was satisfied with the trade. He said he was perfectly satisfied, that he had engaged Mr. Hardy

to assist him in making the trade, that if he would do so he would give him a new hat. I then asked him if his wife was perfectly willing to live in the country. He stated that she was. He called again at the same place a few nights afterwards and told me that he had given Judge Purcell possession of the house and premises, and he expected to move on the farm in a few days. He said that he, Coleman, had received possession of the said farm from the said Purcell, and that he had gone to the Patent Office to obtain seed for it, and that he thought he could make a comfortable living from honey and garden vegetables and milk, supplying the markets of Alexandria and Washington with these articles. He said it contained a great deal of rock, valuable for building purposes and to him especially as he was
56 a stone-mason.

3d interrogatory. Did Coleman state that he had examined the land both as to quality and quantity, and also the title thereto before trading.

Answer. He did. He emphatically so stated. That he had gone all over of the land and examined the lines of the same, and was satisfied with the title. This, he stated, was before the trading?

4th interrogatory. Did you or not understand from said Coleman that he was to make complainant a good title to the house and premises on Capitol Hill?

Answer. Yes; he stated in answer to my question that he was to give Mr. Purcell a good title and peaceable possession to the house and lot on the corner of 3d and C streets.

57 5th interrogatory. Did said Coleman intimate in the above conversations that there was a deed or mortgage on the premises, or any part given by him, said Coleman, to the building association or to any other parties?

Answer. He never did in any conversation, either before or since the trade.

6th interrogatory. Is or is not said Coleman a man of much shrewdness in dealing?

Answer. He is exceedingly so in making bargains.

7th interrogatory. Did you ever have any dealings with said Coleman?

Answer. I have had. He came to me abont two years and a half ago and employed me to build a monument for his first wife's grave, and
58 promised to pay me fifty dollars for it, and did not do so. I made it according to request, and put it up. He then left the city.

8th interrogatory. After the difficulty of his breaking into the house by Coleman, did you have any conversation about the trade with him, and did he give any reasons for having entered again?

Answer. He stated that he objected to go to the farm because his wife refused to go with him and there live with him. That she would rather remain in the city with her relations. He stated that this was his only reason for having entered the premises again. He further stated that he got into the house by a back window and opened the passage door, he having found a key on the inside.

9th interrogatory. Did said Coleman some weeks after his breaking into said house state that he and a man by the name of Gilbert S. Miner, had had an exchange of some property for the same house and premises which he, Coleman, had previously traded to complainant? If so, state whether
59 the said Coleman stated that Miner had so traded, and was to run all risks in regard to complainant's previous exchange.

Answer. Yes, that was the substance of the conversation between Coleman and myself on that point.

10th interrogatory. Did he state that Miner had annoyed him much to make the trade, knowing of complainant's prior purchase?

but that he relied on said Coleman not having made said complainant a deed for said premises?

Answer. I think that was the sum and substance of his admission on that occasion.

52 11th interrogatory. Have you any doubt about this above having been his admissions?

Answer. I have not.

12th interrogatory. Do you recollect that Miner stated it as his opinion that if Coleman had even made complainant a deed, it not having been recorded it would not prejudice the title of a third party buying, although said third party might have known of the trasaction?

Answer. I have an indistinct recollection of it.

Subscribed as for correct this 27th day of Dec., 1862.

GILBERT L. GIBERSON.

53 DEC. 29th, 1862.

The examiner being too unwell, the further examination of the witnesses was postponed until Dec. 30th, 1862, at 12 o'clock m.

DECEMBER 30th, 1862.

The examiner being still too unwell the further examination of the witnesses was postponed by him until Dec. 31st, 1862, at 12 o'clock m.

DEC. 31st, 1862.

The examiner being still too unwell to attend, the further examination of the witnesses was postponed by him until January 1st, 1863, at 12 o'clock m.

JANUARY 1st, 1863.

The examiner being still too unwell to attend, the further examination of the witnesses was postponed by him until January 2d, 1863, at 12 o'clock m.

JANUARY 2d, 1863.

On this 2d day of January, 1863, before me, the subscriber, a standing examiner in chancery, appeared William F. Purcell, complainant, and Edwin C. Morgan, sol. on behalf of the Jackson Building Association, for the purpose of taking testimony of the above case. And at the same time
54 the said complainant produced one James N. Ball as his witness, and who, having been first duly sworn according to law, did answer in the words following to the subjoined interrogatories.

Examination of James N. Ball.

1st interrogatory. What office do you hold?

Answer. I am now an officer on the Capitol extension. I was formerly a clerk in the Patent Office. I have been in the employment of the government since the year 1854.

2d interrogatory. Did you have any conversation about the month of January, 1861, with James Coleman, who was at the Capitol as watchman of the grounds, about an exchange of his, Coleman's, house and premises on Capitol Hill with complainant, for the said complainant's farm in Fairfax County, Va., near Bailey's Cross Roads? If so, state minutely the conversation.

55 Answer. About that time Mr. Coleman called at my office, and stated that he had traded his house and premises with Judge Purcell for his farm in Fairfax County, Va., near Bailey's Cross Road. He said that he expected to move on it in a few days. I asked him if he was satisfied with the trade. He said he was perfectly satisfied, that he had engaged Mr. Hardy

to assist him in making the trade, that if he would do so he would give him a new hat. I then asked him if his wife was perfectly willing to live in the country. He stated that she was. He called again at the same place a few nights afterwards and told me that he had given Judge Purcell possession of the house and premises, and he expected to move on the farm in a few days. He said that he, Coleman, had received possession of the said farm from the said Purcell, and that he had gone to the Patent Office to obtain seed for it, and that he thought he could make a comfortable living from honey and garden vegetables and milk, supplying the markets of Alexandria and Washington with these articles. He said it contained a great deal of rock, valuable for building purposes and to him especially as he was
56 a stone-mason.

3d interrogatory. Did Coleman state that he had examined the land both as to quality and quantity, and also the title thereto before trading.

Answer. He did. He emphatically so stated. That he had gone all over of the land and examined the lines of the same, and was satisfied with the title. This, he stated, was before the trading?

4th interrogatory. Did you or not understand from said Coleman that he was to make complainant a good title to the house and premises on Capitol Hill?

Answer. Yes; he stated in answer to my question that he was to give Mr. Purcell a good title and peaceable possession to the house and lot on the corner of 3d and C streets.

57 5th interrogatory. Did said Coleman intimate in the above conversations that there was a deed or mortgage on the premises, or any part given by him, said Coleman, to the building association or to any other parties?

Answer. He never did in any conversation, either before or since the trade.

6th interrogatory. Is or is not said Coleman a man of much shrewdness in dealing?

Answer. He is exceedingly so in making bargains.

7th interrogatory. Did you ever have any dealings with said Coleman?

Answer. I have had. He came to me abont two years and a half ago and employed me to build a monument for his first wife's grave, and
58 promised to pay me fifty dollars for it, and did not do so. I made it according to request, and put it up. He then left the city.

8th interrogatory. After the difficulty of his breaking into the house by Coleman, did you have any conversation about the trade with him, and did he give any reasons for having entered again?

Answer. He stated that he objected to go to the farm because his wife refused to go with him and there live with him. That she would rather remain in the city with her relations. He stated that this was his only reason for having entered the premises again. He further stated that he got into the house by a back window and opened the passage door, he having found a key on the inside.

9th interrogatory. Did said Coleman some weeks after his breaking into said house state that he and a man by the name of Gilbert S. Miner, had had an exchange of some property for the same house and premises which he, Coleman, had previously traded to complainant? If so, state whether
59 the said Coleman stated that Miner had so traded, and was to run all risks in regard to complainant's previous exchange.

Answer. Yes, that was the substance of the conversation between Coleman and myself on that point.

10th interrogatory. Did he state that Miner had annoyed him much to make the trade, knowing of complainant's prior purchase?

Answer. He did; that Miner was anxious to get the place from him, and would run all risks of complainant's prior purchase.

Subscribed to as correct this 2nd day of January, 1863.

JAMES N. BALL.

The witness was recalled by said complainant.

11th interrogatory. What do you consider would be a fair price
60 for the house and premises on Capitol Hill about the time of the trade?

Answer. From my knowledge of the premises, I think $2,000 would have been a fair price at that time. I have lived in the neighborhood eight years.

JAMES N. BALL.

JANUARY 5th, 1863.

The further examination of witnesses having been postponed by me to this day, at one o'clock p. m., this 5th day of January, 1863, Wm. F. Purcell, complainant, and E. C. Morgan appeared for its continuation, and at the same time the said Purcell produced one Benjamin W. Ferguson, esq., as his witness, who, having been first duly sworn according to law, did make answer in the following words to the subjoined interrogatories.

Examination of Benjamin W. Ferguson.

1st interrogatory. Did you set with justice Giberson about the month of January, 1861, in a trial for James Coleman having forcibly entered
61 complainant's house on the corner of C and 3rd streets, Capitol Hill?

Answer. I did.

2nd interrogatory. Did you set with said Giberson about two months thereafter in a similar prosecution against one Gilbert S. Miner, for having forcibly entered said premises with a false key?

Answer. I did.

3rd interrogatory. Have you read the answers of said Justice Giberson taken in this case before Samuel L. Phillips, standing examiner?

Answer. I have heard them read by Examiner Phillips.

4th interrogatory. Are the answers of the said Giberson strictly true in regard to the admissions made by said James Coleman and Gilbert S. Miner, and in all other respects?

Answer. They are all true to the best of my recollection.

62 5th interrogatory. Have you any doubt about their correctness?

Answer. None in the world.

Subscribed to as correct this 5th day of January, 1863.

R. W. FERGUSON.

The complainant, Wm. F. Purcell, esq., here produced one James McGraun as his witness, who, having been first duly sworn according to law, did make answer in the following words to the subjoined interrogatories.

Examination of James McGraun.

1st interrogatory. Were you acquainted with one James Coleman, formerly of Capitol Hill, now a resident near Alexandria?

Answer. I remember him distinctly.

63 2nd interrogatory. Did he make any statements to you about the month of January, 1861, in relation to his having exchanged his house and lots on Capitol Hill, corner of 3rd and C, with Wm. F. Purcell, compl't, for a farm in Fairfax County, Va., of about 50 acres, near Bailey Cross Roads? If so, please to state minutely all he stated on that occasion.

Answer. About that time I met Coleman in market. He stated to me in conversation that he had made a trade with Mr. Purcell. I asked him if it was finally completed. He said yes. He said that he was going to send his wife and brother on the farm on the following week. That he had also given possession of his house to judge Purcell. He said that there was a stone quarry on the place, and that as soon as he could get things arranged he intended to build himself a store on the place. He said that the house was not much account, but after some time he could make himself very comfortable.

3rd interrogatory. Did he not state whether he had examined the
64 land and title to the same before trading?

Answer. I asked him that question. He told me that he had written to the clerk of the court, and that he got an answer which was favorable. He also stated that he had been on the place and examined it before trading and that he had found a mill convenient to the place.

4th interrogatory. Did he say anything of having a man on the place and improving the same?

Answer. I asked him if there was anybody on the place. He told me that there was a man on the place at mill, that is, he could turn him out whenever he choosed.

5th interrogatory. Did you have any conversation with Gilbert S. Miner about the time he was committed by Justices Giberson and Ferguson for having entered said house and lots forcibly?

Answer. Mr. Miner I met in Justice Ferguson's office about that
65 time. Mr. Miner afterwards came to me and had some conversation with me about it. He told me that he had made a trade with Coleman. I remarked to him if he was aware that Mr. Coleman had traded his house with Judge Purcell, for a farm in Va. He told me yes, that he knew all about the trade, but Mr. Coleman or his wife had given no deed to Mr. Purcell, and that the trade with Mr. Purcell he did not recognize as any account.

JAS. McGRAUN.

6th interrogatory. Do I understand you to say, in your answer to the last interrogatory, that said Miner admitted that he knew of complainant's trade with Coleman at the time he, Miner, traded with Coleman for the same property, and was to run all risks as to complainant's claim?

Answer. Yes, sir; Miner so admitted that he was aware of the trade with Judge Purcell and Coleman before he himself had traded with Coleman. I know nothing about the risks.

66 7th interrogatory. Did Coleman at any time admit to you, or intimate, that his house and lots were covered by a deed of trust to the Jackson Building Association, or any other party? and did you not suppose that he was to give complainant a good title to the same?

Answer. He never did so say or intimate. He said nothing about title.

8th interrogatory. Did Coleman say or intimate that he was to give complainant a fraudulent title?

Answer. He did not say anything about title. He said he gave him possession of the house and lots when he traded.

Subscribed to as correct this 5th day of January, 1863.

JAS. McGRAUN.

JANUARY 6th, 1863.

The further examination of witnesses having been postponed until this 6th day of January, 1863, the said Wm. F. Purcell, complainant, and E. C. Morgan, solicitor as aforesaid, having appeared before me for the purpose of its

continuance, and at the same time the said Purcell produced as his
67 witness Gen. Peter F. Bacon, who, having been duly sworn, did make answer in the following words to the subjoined interrogatories.

Examination of Peter F. Bacon.

1st interrogatory. Did or not one James Coleman ever make any admissions under oath as to the exchange of his house and lots and a farm of Mr. Purcell in Fairfax County, Va.? If so, state minutely all he said about January, 1861.

Answer. He did. He spoke of having exchanged a house and lots on Capitol Hill for a farm of Judge Purcell's, in Fairfax Co., Va., near Bailey's Cross Road. He stated that he was satisfied with the trade for some time after he had made it, but became dissatisfied because his wife refused to live with him on the farm, and undertook forcibly to repossess himself of the premises on Capitol Hill.

2nd interrogatory. Did he not state distinctly that the unwillingness of his wife to live with him on said farm after he had traded was his
68 only objection and which caused his said attempt to repossess himself forcibly of said house and lots on Capitol Hill?

Answer. It was the only objection I heard him make.

Subscribed to as correct this 6th day of January, 1863.

PETER F. BACON.

It is hereby certified by the undersigned, examiner to the honorable the judges of the circuit court of the District of Columbia, that the above depositions were taken at the place specified in the notice and within the hours of 8 a. m. and 7 p. m. of each day.

On the first day of the examination of witnesses, Gilbert S. Miner, esq., appeared and cross-examined the witnesses. This was the 24th day of December, 1862. The case was then adjourned until the 25th day of December, 1862. This being Christmas day, it was then adjourned until the 26th day of December, 1862. The said Gilbert S. Miner on that day, and
69 before the examination of witnesses began, stated to the undersigned that if he was not present at the time Wm. F. Purcell produced his witnesses, to go on in his absence.

Given under my hand this 6th day of January, 1863.

SAMUEL L. PHILLIPS, *Examiner, etc.*

70 *Deed of trust, Coleman and wife to trustees Jackson Bu'ld'g Asso'n, filed June 5, 1863.*

This indenture, made this ninth day of July, 1860, between James Coleman and Mary, his wife, of the city of Washington, in the District of Columbia, of the first part, and E. C. Morgan and Asbury Lloyd, trustees of the Jackson Building Association, of the same place, of the other part, witnesseth, that whereas the said James Coleman, being a stockholder in the said association to the extent of five shares, has received as a loan or advance of stock therefrom the sum of one thousand dollars, for which said sum he has given his obligation under seal, bearing date the ninth day of July, 1860, drawn to Michael Lausmann, the treasurer of said association, or to his successor in office, and said writing obligatory is subject to a certain condition thereunder written to the effect that if the said James Coleman, his heirs, executors, or administrators, shall well and truly pay or cause to be paid to the treasurer of the said association for the time being, the sum of two dollars, current money, per month on each of the said five shares of stock which he, the said James Coleman, holds in said association, commencing on the first Tues-

day of August, 1860, and to be paid on the first Tuesday of each succeeding month, and also any fines or forfeitures which may be imposed on him as provided in the constitution of said association, until the funds of said association shall divide to each share of stock the sum of two hundred
71 dollars, then the said obligation to be void; and in order to secure said monthly payments, fines, and forfeitures, he hath agreed to execute this deed of trust:

Now this indenture witnesseth that the said James and Mary Coleman, for and in consideration of the premises and the sum of five dollars to him in hand paid by the said trustees before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, hath given, granted, bargained, sold, released, and confirmed, and by these presents doth give, grant, bargain, sell, release, and confirm, unto the said and trustees, and the survivor of them, their and his heirs assigns, all that piece or parcel of ground lying and being in the city of Washington, in the District of Columbia, and known as part of lot numbered four, (4,) in square numbered seven hundred and eighty-two, (782,) beginning for the same at the southwest corner of said lot No. 4, and running thence east along the line of C street north eighty (80) feet, thence north seventy (70) feet, thence west eighty (80) feet, thence south along 3rd street east seventy (70) feet, to the place of beginning, containing five thousand one hundred square feet of ground, together with the appurtenances, rights, privileges, and other hereditaments thereunto
72 belonging or in anywise appertaining, and the remainders, reversions, rents, issues, and profits thereof, and all the right, title, interest and estate of the said James and Mary Coleman in and to the same. To have and to hold the said piece of ground and premises, with the appurtenances, unto the said trustees and the survivor of them, their and his heirs and assigns, for the uses and trusts hereinafter mentioned, that is to say, upon trusts to permit the said James Coleman to have, hold, use, occupy, possess, and enjoy the said parcel of ground and premises hereinbefore granted, until default made in some one or more of the payments stipulated in said condition to said writing obligatory, at the same time and times and in the manner therein set forth. And upon this further trust, that the said James Coleman, his heirs, executors, and administrators shall fail to pay the said monthly payments and fines and forfeitures aforesaid, so that any one or more of the same shall be due and unpaid, then the said writing obligatory shall be deemed and taken as forfeited, and in either of such cases, upon the request in writing of the treasurer of said association at the
73 time being, it shall and may be lawful for the said trustees and the survivor of them, their and his heirs and assigns, to sell the said piece of ground and premises, with the appurtenances, and all and singular the premises hereinbefore granted, at public auction to the highest bidder therefor; and before such sale they or he shall give public notice thereof by advertisement in some newspaper published in the said city, at least thirty days previous to the day of sale, the time, place, and terms of sale being hereby left to the discretion of the said trustees. And upon the full compliance by the purchaser with the terms and conditions of the same, the said trustees and the survivor of them, their and his heirs and assigns, are hereby authorized and empowered to make and execute to such purchaser and his heirs a good and sufficient deed in fee simple for the said parcel of ground and premises, with the appurtenances, hereinbefore granted, and out of the proceeds of the sale pay, first, the cost and expenses attending said *said*, including a compensation to the trustees of two and a half per cent. upon the gross amount of said sale; secondly, pay to the said treasurer the said
74 sum of one thousand dollars, together with all monthly dues and the fines and charges due thereon in arrears at the time of said sale, giv-

ing due credit to the same James Coleman for all payments made by him, and the residue, if any, pay over to the said James Coleman, his executors, administrators, or assigns. And the said James Coleman, for himself, his heirs, executors, and administrators, covenants, promises, and agrees to and with the said trustees and the survivor of them, their and his heirs and assigns, that he and they shall and will insure the said premises in some company approved by the board of directors of said association, during the continuance of said trust, in the sum of sixteen hundred dollars against by fire, and assign the policy of insurance to the said trustees and the survivor of them, their and his heirs and assigns, who, in case of damage by fire, shall receive the money and apply the same as they or he shall deem best to secure the objects set forth in these presents; and in default of the said James Coleman insuring said premises and assigning the said policy as hereinbefore required, it shall be lawful for the said trustees and the
75 survivor of them, their and his heirs and assigns, to effect such insurance, and the premium paid for the same shall be a lien on said premises added to the amount of debt secured by these presents.

In testimony whereof, the said James Coleman and Mary Coleman herewith set their hands the day and year first hereinbefore written.

[SEAL.] JAMES COLEMAN.
[SEAL.] MARY COLEMAN.

Signed, sealed, and delivered in the presence of—
CHAS. WALTER.
J. G. STAFFORD.

DISTRICT OF COLUMBIA, *County of Washington, to wit:*

I, Charles Walter, a notary public in and for the county aforesaid, in the District aforesaid, do hereby certify that James Coleman and Mary Coleman, parties grantors to the foregoing and annexed deed of trust, bearing date the ninth day of July, 1860, personally appeared before me, in my county aforesaid, the said James Coleman and Mary Coleman, being both personally well known to me as the persons who executed the said deed, and the said
76 James Coleman did acknowledge the same to be his act and deed, and the said Mary Coleman, being examined by me privily and apart from her husband, and having the deed aforesaid fully explained to her, she did acknowledge the same to be her act and deed, and declared that she had willingly signed, sealed, and delivered the same, and that she wished not to retract it.

Given under my hand and seal this ninth day of July, in the year of our Lord 1860.

[SEAL.] CHAS. WALTER, *Notary Public.*

Endorsement on deed of trust.

APRIL 17, 1863.

I hereby assign the within deed of trust to William F. Purcell for value received. By order of the board of the Jackson Building Association.

(Signed) MICHAEL LAUTMANN, *Treasurer.*

Witness: CHAS. WALTER, *Sec'y.*

77 *Order of the Jackson B'ld'g Ass'on to trustees to convey to the compl't, filed June 5th, 1863.*

JACKSON BUILDING ASSOCIATION,
Washington City, D. C., April 17th, 1863.

Whereas James Coleman and his wife, Mary Coleman, formerly of the above city, but now of the State of Virginia, did execute, in the year 1860,

a deed of trust to Edwin C. Morgan and Ashbury Lloyd, for the benefit of said association, to secure a bond of a thousand dollars, given to the treasurer of the same or his assigns, on a house and lot on Capitol Hill, on C and 3rd streets, in square seven hundred and eigty-two, lot No. 4, duly recorded according to law. And whereas the said James Coleman has failed to pay any portion of said bond or the fines which have accrued, it was resolved by the last meeting of the board that inasmuch it is shown satisfactorily that Wm. F. Purcell has become the owner of said house and lot; that the said trustees are directed to convey to said Purcell the said house and lot on his discharging all the the indebtedness of said James Coleman to said building association: And now be it known that the said Wm. F. Purcell has this day fully paid off and discharged all of said indebtedness on
78 said house and lot, and that the said bond of said James Coleman and the said deed of trust given by him and his said wife are hereby assigned by the said treasurer and witnesseth by the secretary to said Wm. F. Purcell and his heirs and assigns.

CHAS. WALTER,
Sec'ty of the Jackson B. Association.

I hereby certify that the above is a true copy of the original.
CHAS. WALTER,
Sec'ty of the Jackson Building Association.

Assignment, Coleman to Lautmann, filed June 5, 1863.

Know all men by these presents that I, James Coleman, have transferred, assigned, and set over, and by these presents do transfer, assign, and set over, to Mich. Lautmann all my right, title, and interest in five shares of the capital or joint stock of a certain association or joint stock company, denominated the Jackson Building Association, represented by certificate No. 65, in trust that the said Mich. Lautmann shall have and hold the same all collateral security for the payment of a certain debt of one thousand dollars, for which I have this day made and executed my deed and
79 indenture, and that he, the said M. Lautmann, will appropriate the value of said stock towards the payment of the principal sum of said debt, and for no other intent or purpose whatever.

Witness my hand and seal the ninth day of July, A. D. 1860.
JAMES COLEMAN.

Sealed and delivered in the presence of us.

Endorsement on assignment of Coleman to Lautmann.

APRIL 17, 1863.

I hereby assign the within bond for value received the within bond to Wm. F. Purcell. By order of the board of the Jackson B. Association.
(Signed) MICHAEL LAUTMANN.

J. W. ANGUS.
CHAS. WALTER, *Sec'y.*

Coleman's answer, ordered to be filed and cause dismissed as vs. Chas. Waller filed July 27, 1863.

PURCELL
ag't
MINOR, COLEMAN, AND OTHERS.

Ordered that Coleman's answer be filed, subject to the question, whether in time and it ought to be received, to be made at the hearing. In the in-

terim, general replication to be considered filed thereto. Either party may take further testimony within thirty days; the depositions already taken to stand and be read at the hearing, and the cause to be for final hear-
80 ing at the ensuing Oct. term, 1863. The bill may be considered dismissed as against Chas. Walter and leave given to take his deposition.

27 July, 1863.

By consent:

W. REDIN, *for Comp't.*
WM. A. WHARTON, *for Def't.*

Ordered by the court.

81 *Coleman's answer, filed July* 27, 1863, *with* 3 *exhibits.*

The answer of James Coleman to a bill of complaint exhibited against him and others in the circuit court of Washington County, District of Columbia, by William F. Purcell.

This respondent, saving and reserving to himself all benefit and advantage of exception which can or may be taken to the many errors, uncertainties, and other imperfections in the said complainant's said bill of complaint contained, for answer thereto or to so much or to such parts thereof as this respondent is advised is or are material for him to make answer unto, this repondent, answering, says that during the autumn of the year 1860, and the winter of 1860 and 1861, this respondent was seeking an opportunity to exchange his house and lot (valued at about $4,000) situated on Capitol Hill, on the corner of 3rd and C streets, and not in a remote part of the said city, as alleged in the complainant's bill, but almost in its very centre and of great value, for a farm in Maryland or Virginia. That to accomplish said object this respondent looked at a number of farms in Maryland and Virginia, and about the last of December, 1860, or the first
82 of January, 1861, this respondent looked at a farm claimed by complainant, situated near "Baily Cross Roads," in Virginia, to ascertain whether or not said farm would suit this respondent to make an exchange of his said house and lot therefor; and at the same time this respondent let the complainant have one of the keys of his said house on Capitol Hill (there being no one residing in said house at that time) for the purpose of giving the complainant an opportunity to examine the said property so as to be able to judge its value, and for no other purpose was the said key of the said house handed to said complainant.

This respondent, in consequence of the fact that said complainant was holding the high and responsible position of judge, reposed implicit confidence in him, and did not think that the key of his said house would be detained from this respondent under such circumstances, and an attempt be made by the said complainant to compel this respondent to exchange his said house and lot for the tract of land claimed by the said complainant.

83 This respondent examined said farm mentioned in said complainant's bill, and also wrote a letter to Alfred Moss, esq., clerk of the county court of Fairfax County, for an abstact of title of said farm so claimed by the said complainant, and received from said Alfred Moss, esq., the letter hereto annexed and marked Exhibit A, being the letter mentioned in the complainant's bill, and this respondent prays that the same may be read as a part of his said answer, showing that no title to said farm was vested in said complainant, and that it was so encumbered that no prudent man would be willing or satisfied to purchase it. And being thus informed of the difficulty, and believing it to be of small value compared with this respondent's

said house and lot, this respondent declines to make any contract with the said complainant in reference to an exchange.

This respondent, further answering, says that immediately after the receipt of said letter from said clerk, Alfred Moss, esq., he informed the complainant that he could not exchange his said house and lot on Capitol
84 Hill for the said farm under the circumstances; when, to this respondent's surprise, the said complainant said to this respondent "that his," the complainant's, "title was as pure as spring water, and if they exchanged, and if anything was to happen or occur that the said respondent could pretend to be an innocent purchaser." He, the said complainant, well knowing at the same time that, in addition to the encumbrances mentioned in said letter from Alfred Moss, esq., the clerk as aforesaid, there were against him, the complainant, unsatisfied judgments in certain counties of Virginia, binding, and a lien at law of a far greater amount than the value of said farm, of which at the time this respondent was ignorant.

When this respondent requested the return of the key of his said house, the complainant refused to give it up, and said he would hold it, and and claimed by virtue thereof the possession of the said property, and that he would compel this respondent to exchange, he, the said complainant, well knowing at the same time that the said key only came into his
85 possession for the purpose of enabling him to view the said property for the purpose as aforesaid, to ascertain the value thereof, and not to constitute a lien or any right to the possession of said property.

This respondent, some time after, unlocked the back door of his said house and took possession thereof, as he had a right to do.

A short time after the complainant came to the vicinity of said house, as he has been informed, and believes that information to be true, and endeavored to procure the assistance of a certain magistrate or justice of the peace to eject this respondent from this respondent's said house, but said justice declined to act; but soon after the said complainant again returned, accompanied with divers individuals, police officers, constables, and justices, to Capitol Hill, and came to said house so in the possession of this respondent, and the said justices, in a most tyranical manner, entered said house and fined this said respondent for being in the possession of his own property, and so intimidated this respondent that under fear and duress
86 this respondent gave to one of the officers the key of the back door, in order to get his liberty. A few days after, and at the instance of the said complainant, and through malice, and with, as it would seem, a settled determination to obtain money, as well as his said property on Capitol Hill, without consideration, this respondent was arrested and put in jail, from whence this respondent was brought out and discharged upon a writ of habeas corpus, and thereby relieved and discharged from the payment of said fine so imposed by said justices.

A certified copy of said writ, and proceedings thereupon, are herewith filed and made Exhibit B, and prays that the same be read as a part of respondent's said answer.

This respondent, further answering, says that during the fall months of the year 1860 he looked at a farm, about one mile from the city of Alexandria, a number of times, and finally, on the 9th day of March, 1861, this respondent and his wife executed a deed conveying his said house and
87 lot on Capitol Hill to Virginia A. Miner, for her sole and separate use and benefit, for said farm near Alexandria, and immediately took possession thereof, and has ever since and now resides on said farm.

This respondent, further answering, says that he has been informed, and can prove by oral testimony to this honorable court, that there are a num-

ber of judgments on the dockets, (yet unsatisfied,) in certain counties of Virginia, to wit, in the counties of Prince William and Spottsylvania, against the said complainant, which judgments are a lien of law upon said land of complainant at the time of their rendition, which, were there no other incumbrances and the title of said land in said complainant, would put it wholly out of the power of the complainant to make a clear or valid title of said tract of land to any purchaser, for said judgments, this respondent is informed, and believes the information to be true, amount to more than the value of said tract of land.

This respondent says that in consequence of the war he is not able to produce the record of the judgments against the said complainant
88 which were rendered against him in the said counties aforesaid, and prays that his cause may not be prejudiced in consequence of such failure, it being entirely beyond his control, as is well known to this honorable court.

This respondent, further answering, says that the allegation in said complainant's bill, that this respondent had entered into a conditional contract with Gilbert S. Miner for the sale of said house and lot, is without foundation and untrue, as appears from the deed of date the 9th of March, 1861, from this respondent and wife to Mrs. Virginia A. Miner, mentioned in said bill of complaint, a copy of which deed is herewith filed, marked Exhibit C, and the same prayed to be read as a part of his said answer.

This respondent denies that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary for this respondent to make answer unto, not herein and hereby
89 well and sufficiently answered, confessed, triversed, and avoided or denied, is true to the knowledge or belief of this respondent. All which matters and things this respondent is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most unlawfully sustained.

JAMES COLEMAN.

ALEXANDRIA COUNTY, *to wit:*

On this 15th day of July, in the year of our Lord one thousand eight hundred and sixty-three, before me, the subscriber, a justice of the peace in and for the said county, in the State of Virginia, personally appeared James Coleman, whose name is signed to the aforegoing answer, and made oath in due form of law that the facts therein stated, so far as they depend on his own knowledge, are true, and that the facts therein set forth as derived from the information of others he believes to be true.

Given under my hand this 15th July, 1863.

90 (Signed) WM. N. BERKLEY,
Justice of the Peace.

91 *Exhibit A, to Coleman's answer, filed July 27, 1863.*

FAIRFAX CO. HO., *Va., January 7, 1861.*

D'R SIR: Yours of the 4th inst. has been received.

It appears from the records of my office that Austin L. Adams has title to about fifty-one acres of land in this county, near Baily Cross Roads, and it is clear of incumbrance, so far as the records show, or my own knowledge extends, except as follows:

There are three attachments now pending in the circuit c't of this county against the land. One in favor of Edward Hall, for several hundred dollars; whether anything or what amount will be received I cannot say, but from

my own knowledge of the case I cannot think much will be. Two in favor of Turner Dixon; one for $90, with interest on $45 from 1st January, 1847, and $45, the remainder, from 1st January, 1848, credited by $25 paid 1st January, 1848; costs of suit $48 15. The other for $50, with interest from 1st January, 1849; credited by $31 paid in 1851; cost $52 21. These two debts are not disputed. There is an outstanding deed of trust on the land which I know has been paid off, but has never been released.

The land was recently sold for taxes. It can be redeemed, however. The amount is less than $5. Have these matters settled and your title will be clear. My fee is 50c. Send in postage stamps.

Respectfully yours,

(Signed) ALFRED MOSS.

Mr. JAMES COLEMAN, *Washington, D. C.*

92 *Exhibit B, to Coleman's answer, filed July* 27, 1863.

In the matter of the application of James Coleman for habeas corpus.

To the hon. the judge of the circuit court of the District of Columbia for the county of Washington, District of Columbia:

The petition of James Coleman, free white male citizen of the District of Columbia, respectfully showeth to your honors that heretofore, to wit, on or about the 22d day of January, A. D. 1861, your petitioner, being the owner of a messuage and premises situate and being in Washington City, District of Columbia, and honestly believing that he was entitled in law to the possession of said premises, did, on the date aforesaid, by means of a key which he, your petitioner, had in his possession, enter upon and peaceably take possession of said premises, the same being then unoccupied; that he held the peaceable possession of said premises until the 23d day of January, A. D. 1861, when one Wm. F. Purcell, setting up and pretending that he was entitled to possession of said premises, did procure two justices of the peace of said county, to wit, Gilbert L. Giberson and B. W. Ferguson, to be and appear on said premises, who authorized and directed one Henry Yeatman, a police officer of said city, to take your petitioner into custody upon a charge of forcible entry and detainer; that then and thereupon, after a full hearing and examination in the premises, it was finally agreed between the said Wm. F. Purcell, the said justices, and your petitioner that if
93 your petitioner would yield the possession of the premises to said Purcell, and would agree to pay the legal costs and fees to which said justices and officer were entitled to, for their action in the premises, that then and thereupon he, your petitioner, should be discharged fully from all responsibility in the premises; that then and thereupon your petitioner did agree to yield, and did yield, possession of said premises, (for the time being, and without prejudice to his rights in the premises,) and did agree to pay the legal fees and costs attending said proceedings; whereupon your petitioner was discharged from custody, and from that time to the date of the filing of this petition has been at large.

Your petitioner further showeth, upon his information, understanding, and belief, that afterwards, to wit, on the 24th of said month, one of his counsel, Mahlon Ashford, was called upon by said Yeatman, who demanded of him the payment, on behalf of your petitioner, of the sum of ten dollars, which he claimed as the costs of said proceedings, said Yeatman stating that if the said sum of ten dollars was not paid before night the justices aforesaid would proceed to make out a mittemus, and send your petitioner to
94 jail; that then and thereupon said Ashford refused to pay said sum of ten dollars, and stated to said Yeatman, in substance, that when

a bill setting forth in items such costs as the law allowed was presented, the same would be paid; that then and thereupon the said Yeatman left, and shortly after returned and presented a paper writing setting forth the indebtedness by your petitioner to Wm. F. Purcell as for money paid to his, your petitioner's, use, and which said Ashford assumed to pay.

This paper and demand said Ashford refused to recognize and pay.

Your petitioner further shows that afterwards, to wit, on the 25 of said month, your petitioner was arrested by said Yeatman, who claims to hold a commitment from said justices in respect to the premises aforesaid, carried him to the jail of said county, and then and there imprisoned him, when your petitioner avers, charges, and offers himself ready to prove and show he is illegally, unjustly, and against his will, detained.

Your petitioner thereupon prays your honors to grant him the writ of habeas corpus, directed to the marshal of the District of Columbia, so that he may be brought before your honors to be dealt with according to
95 law.

BRADLEY, CARRINGTON & LLOYD, AND ASHFORD,
For Petitioners.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

This 25th day of January, A. D. 1861, before the subscriber, a justice of the peace in and for said county, personally appeared James Coleman and made oath on the Holy Evangely of Almighty God that the matters and things stated and set forth in the foregoing and annexed petition are true to the best of his knowledge and belief.

CHARLES WALTER, *J. P.* [SEAL.]

DISTRICT OF COLUMBIA, *County of Washington, ss:*

This 25th day of January, 1861, before the subscriber, a justice of the peace in and for said county, personally appeared Mahlen Ashford and made oath, in due form of law, that so much of the foregoing petition as refers to his conversations and doings in the premises is true and that he believes the rest to be true.

Sworn to before me.

CHAS. WALTER, *J. P.* [SEAL.]

Endorsed: "Petition for habeas corpus, ex parte, James Coleman.
96 Let writ issue, by order, June 25, 1861."

Habeas corpus.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America to the marshal of the District of Columbia, greeting:

You are hereby commanded to have the body of James Coleman, who is [SEAL.] confined in your custody, as it is said, or by whatsoever name he may be called, together with the cause of his caption and detention, before the honorable judges of the circuit court of the District of Columbia, at the court-room, City Hall, immediately, to do, receive, and submit to what may be then and there considered concerning him in this behalf.

Hereof fail not, and have you then and there this writ.

Issued 25th January, 1861.

JNO. A. SMITH, *Clk.*

Endorsed, as within commanded: I have the body of James Coleman before your honors, with the cause of his caption and detention.

97 W. SELDEN, *U. S. Marshal.*

January 26th, 1861.

January 26, 1861, after hearing it is ordered by the court that James Coleman be discharged from the jail.

DISTRICT OF COLUMBIA, *to wit:*

I, Return J. Meigs, clerk of the supreme court of said District, hereby certify that the foregoing is a correct copy of the papers in the above case as they appear on file in this office.

Witness my hand and the seal of the said court this July 14, 1863.

R. J. MEIGS, *Clk,*
By R. J. MEIGS, JR., *D. C.*

98 *Exhibit C, to Coleman's answer, filed July 27, 1863.*

DISTRICT OF COLUMBIA, *County of Washington:*

This indenture, made this ninth day of March, in the year of our Lord one thousand eight hundred and sixty-one, between James Coleman and Mary Coleman, his wife, of the city of Washington, in the District of Columbia, of the one, and Virginia A. Miner, of the same place of the other part, witnesseth, that the said James Coleman and Mary Coleman, his wife, for and in consideration of the sum of four thousand and five hundred dollars, current money of the United States, to them paid at and before the sealing and delivery of these presents by the said James Coleman and Mary Coleman, his wife, the receipts of which is hereby acknowledged, hath given, granted, bargained, and sold, enfeoffed, conveyed, released, and confirmed, and by these presents do give, grant, bargain, sell, enfeoff, convey, release, and confirm, unto the said Virginia A. Miner, for her sole and separate use and benefit, her heirs and assignees, forever, a certain portion of a lot of ground, situate and being in the city of Washington, and known in the plan of said city as lot number 4, in square number seven hundred and eighty-

99 two, (782,) fronting on Third street seventy feet, and on C street eighty feet, together with the buildings, improvements, rights, privileges, appurtenances, and other hereditaments to the same belonging or in anywise incident appertaining, and the remainders, reversions, rents, issues, and profits thereof, and all the right, title, interest, and estate of them, the said James Coleman and Mary Coleman, his wife, in and to the same. To have and to hold the said piece, parcel, and lot of land and premises, with the appurtenances, unto the said Virginia A. Miner, her heirs and assignees, forever, to her and their sole use, benefit, and behoof forever. And the said James Coleman and Mary Coleman, his wife, for themselves, their heirs, executors, administrators, by these presents covenant, promise, and agree to and with the said Virginia A. Miner her heirs, and assigns, in manner following, to wit: that they, the said James Coleman and Mary Coleman, his wife, and their heirs shall and will warrant and forever defend the said piece, parcel, and lot of land and premises, with the appurtenances, hereby

100 bargained and sold unto her, the said Virginia A. Miner, her heirs and assigns, from and against them, the said James Coleman and Mary Coleman, his wife, their heirs and assigns, and all persons claiming or who may claim by, under, or through them or any of them, and also from and against all other persons lawfully claiming or to claim the same or any part thereof. And further, that they, the said James Coleman and Mary Coleman, his wife, and their heirs shall and will at any time and all times

hereafter, at the request and cost of the said Virginia A. Miner, her heirs and assigns, make and execute any and every other deed of assurance in law for the more sure and effectual conveyance of the said piece, parcel, and lot of land and premises, with the appurtenances, to the said Virginia A. Miner, her heirs and assigns, or her or their counsel learned in the law, shall or may devise, advise, or require.

In testimony whereof, the said James Coleman and Mary Coleman, his wife, have hereunto set their hands and affixed their seals the day and year first hereinbefore written.

101 (Signed) JAMES COLEMAN. [SEAL.]
MARY COLEMAN. [SEAL.]

Signed, sealed, and delivered in the presence of—
P. McKENNA.
C. W. C. DUNNINGTON.

DISTRICT OF COLUMBIA, *County of Washington:*

We, P. McKenna and C. W. C. Dunnington, justices of the peace in and for the county of Washington, do hereby certify that James Coleman, a party to a certain deed bearing date on the 9th day of March, A. D. 1861, and hereunto annexed, personally appeared before us, in our county aforesaid, the said James Coleman, being well known to us to be the person who executed the deed, and acknowledged the same to be his act and deed. And at the same time personally appeared before us Mary Coleman, the wife of the said James Coleman, who is also well known to us to be the person who executed the said deed, and who also acknowledged the said instrument of writing to be her act and deed, and she, the said Mary Coleman, being by us privily examined apart from her husband and out of his hearing
102 and having the deed aforesaid fully explained to her, she, the said Mary Coleman, acknowledged the same to be her act and deed, and declared that she willingly signed, sealed, and delivered the same to the said Virginia A. Miner, and that she wished not to retract it.

Given under our hands and seals this 9th day of March, A. D. 1861.

P. McKENNA, *J. P.* [SEAL.]
C. W. C. DUNNINGTON, *J. P.* [SEAL.]

103 *Description of the land, filed Oct.* 31, 1863.

In the supreme court of the District of Columbia, in chancery.

WILLIAM F. PURCELL
vs.
JAMES COLEMAN AND OTHERS.

A description of the tract of land sold by Austin L. Adams to William F. Purcell in the year 1859, and by said William F. Purcell to James Coleman, of Washington City, D. C., given by Smith Minor, esq., formerly of Fairfax County, Virginia, now in the 72nd year of his age, who states that he has known said tract of land since his boyhood, and that it has always been reported to contain about 51 acres. Said tract of land, which is just beyond Bailey's Cross Roads, in Fairfax County, is divided by the Columbia turnpike, running from the Long Bridge, on the Potomac River, to Fairfax Court-house.

The extreme southwest corner of said tract touches upon Dogue Run; from thence the boundary line of the tract runs in a northerly direction along the east boundary of the land formerly owned by Capt. Page and now owned by Gordon; thence in an easterly direction to a cedar bush and a pile of stones thereby, in or at a drain immediately on the Columbia turn-

pike, upon the north or northeast side of said turnpike, where the
104 drain crosses the road—this corner having been established and defined by the said tree some twenty-seven years ago. From this tree the boundary line crosses the road upon a southerly course along the west line of the tract of land formerly owned by the said Smith Minor, and by him sold to Caleb Reed; thence in a westerly direction along the north boundary of the tract of land formerly owned by the said Smith Minor, and by him sold to Bancroft; thence in a northwesterly course, crossing the turnpike at a point about 200 yards southwest from the toll-gate, which is placed at the house formerly owned by Austin L. Adams, (being the second toll-gate on said turnpike from the Long Bridge,) and following the boundary line of the "mill lot" or tract of 25 acres, now owned by Dr. Bancroft, back to the point of starting hereinbefore mentioned as situated on Dogue Run.

SMITH MINOR.

Smith Minor, being duly sworn according to law, deposes and says upon oath that the foregoing description is true and correct according to the best of his knowledge, recollection, and belief.

Witness:

Z. C. ROBBINS,
Register of Wills and ex officio Clerk of the Orphans' Court.

Oct. 27, 1863.

105 *Exceptions to reading Coleman's answer, filed Oct.* 31, 1863.

Exceptions to the reading the answer of James Coleman, filed in this cause on the 27th July last. At the time of filing the same his Honor Judge Cartter allowed it to be filed liable to exceptions, (see his order.)

1st. Because it was not filed until the last day of the second term, after the time when the notice of the publication had expired, requiring him imperatively to answer on or before the first Monday in April last, (see 1st Peters's Supreme Court Reports in relation to the rule,) said Coleman was personally served with notice, to take depositions seven months prior to filing said answer, and lived in Virginia only seven miles from this court, and knew well the pendency of the suit.

2nd. The answer is evasive, as to several allegations in the bill drawn by Gilbert S. Miner, a co-defendant; and as to those allegations, answered by the said James Coleman, are proved to be wilfully false by the depositions of Wm. A. Mulloy and seven other respectable witnesses, on file in the cause.

3rd. The new matter in his answer, as well as his exhibits, are equally false, and he has taken no evidence to sustain him. The general replication filed by complainant negatives his answer. There is, therefore, no defense proper to complainant's demands.

All of which is most respectfully submitted to the court.

WM. F. PURCELL.

106 *Ans. Charles Walter, filed Oct.*, 1862.

The answer of Charles Walter to a bill of complaint, exhibited against him and others, in the circuit court of the District of Columbia, by William F. Purcell, in equity.

This respondent states that it is true as stated in said bill, that he was secretary of the Jackson Building Association, and that James Coleman did give a deed of trust on the house and lot to Edw. C. Morgan and Asbury Lloyd, trustees for said association, for the amount specified in said bill of

complaint, in five shares. This respondent further says that it is true as charged by said complainant, that the complainant did file the notice in writing on the 26th January, 1861, that he had purchased the property in question of Coleman, and that the said notice was entered on record on the same day in the proper book. The exhibit in complainant's bill marked B is a true copy of the same.

This respondent further answers and says that within a few days after the filing and recording of said notice, that Gilbert E. Minor came to his office, where he kept the records of said building association, and inquired in relation to the title of Coleman to said house and lot, and that this respondent showed him his record, and gave him a true statement in relation to the deed of trust, *and complainant's notice.*

This respondent further says that the amount due to the said build-
107 ing association by said Coleman at the time respondent filed his notice, was two hundred and twenty-nine dollars, and that said complainant expressed his wish and readiness to pay the amount so due, and get a deed, but that this respondent did not receive it, because he did not consider he had a right to make a deed to the complainant for the property mentioned in said bill, pending a controversy between said complainant and others, mentioned in said bill, as to the ownership of said property, it being a question for the court to decide, and not for this respondent.

This respondent further submits to the court in behalf of the said association, and claims that said association is entitled to all fines and dues and interest up to this time, on the loan aforesaid, according to the rules and by-laws of said association; and also that said association will continue to be so entitled up to the time of the final settlement with said association, whenever that may be. This respondent herewith files the account of said association against said Coleman, up to the date of this answer. This respondent has no knowledge of other matters charged in said bill, and cannot admit or deny them.

This respondent having answered all that is material for him to answer, as he is advised, asks to be dismissed with costs.

CHARLES WALTER,
Secretary of said Building Association.

Subscribed and sworn to before me 14th of October, 1862.

H. NAYLOR, *J. Peace.*

108 *Exhibit to answer of Charles Walter, filed Oct.*, 1862.

Account Jackson Building Association referred to in Charles Walter's answser.

WASHINGTON, *October 14th*, 1862.

Mr. James Coleman indebted to Jackson Building Association:

To advances received	$261 00
Interest due to date	60 00
Fines due to date	12 00
Total	233 00
Paid back in 11 months	44 00
To balance due	189 00
Additional fines to 17th April, 1863	2 40
	191 40

CHARLES WALTER, *Secretary.*

109 *Petition of comp'lt for commission to take deposition of Charles Walter, filed Aug.* 15, 1863.

WM. F. PURCELL *agt.* COLEMAN AND OTHERS. } Equity, 1,706.

On the filing of the answer of Coleman in the above cause at the late term, one of the conditions of the order was the deposition of Charles Walter might be taken by the comp't within 30 days from the date of the order.

The appointment of a commission for the purpose is therefore prayed.

W. REDIN, *for Comp't.*

Order appointing W. R. Woodward comm'r to take depositions, &c., Aug. 15, 1863.

Ordered that Wm. R. Woodward be, and he is hereby, appointed commissioner for the above purpose, and that the clerk issue commission accordingly, Aug. 15, 1863.

ANDREW WYLIE, *Justice of Sup. Co. of D. C.*

110 *Complainant's deposition, filed Sept.* 26, 1863.

WASHINGTON COUNTY, *District of Columbia*:

WILLIAM F. PURCELL *vs.* MINOR, COLEMAN, *et al.* } No. 1,706, in chancery.

I, William R. Woodward, duly commissioned and qualified, do hereby certify that, under and by virtue of the annexed commission to me directed, and the annexed agreement, between the above-named complainant and William A. Wharton, counsel for said defendant, (notice of the time and place of taking depositions before me of witnesses for the complainant having been first given to said counsel for defendants, as appears by the annexed copy thereof,) Henry Yeatman, a competent witness, of lawful age, called to testify in behalf of the said complainant in said cause, pending in the supreme court of the District of Columbia, the same being No. 1,706, in chancery, appeared before me on this 21st day of August, A. D. 1863, between the hours of 9 o'clock a. m. and 6 o'clock p. m.—at 11 o'clock a. m. at my office—in the City Hall, Washington City, D. C., and having been by me first carefully examined, cautioned, and sworn to testify the whole truth, did depose and say in answer to the interrogatories propounded to him by the complainant in person (Wm. Redin, esq., counsel, being sick) as follows:

I. First question. Were you or not present during the month or about the month of January, 1861, on Capitol Hill, in this city, and did James Coleman,
111 one of the defendants in the above suit, make any statements to you in relation to a trade of a house and lot, that he, said Coleman, had formerly owned on C and 3d streets, with complainant, William F. Purcell, for a farm in Fairfax county, Virginia, near Bayley's Cross Roads? If yea, please to state minutely all that said Coleman said during that conversation.

Answer. Yes, I was present. I happened there on business. I found that Judge Purcell, the complainant, had charged James Coleman with entering his, the judge's, house, and there was right smart conversation between the judge and Coleman, in regard to the ownership of the house. During the conversation it was made to appear to me, and all those present, that there had been a trade between Coleman and Judge Purcell of that house for a

farm in Fairfax County, Virginia, near Bailey's Cross Roads. The judge asked him, to the best of my knowledge, why he had come back and took possession of the house after the trade had been made. Coleman said, on that occasion, that he was perfectly satisfied with the trade and would not have done so if it had not been for his, Coleman's, wife; that she would not live there, because there were none of her relations or folks that lived near there, and that she persuaded him to come back and enter and take possession of the house as he had done.

II. Second question. How did Coleman enter said house according to his own admission?

Answer. He told me that he entered the house by the second-story window in the night time. He found the key in the inside of the door when
112 he entered, which key he afterwards returned to Judge Purcell in my presence, and said he regretted very much that he had done so, and that his wife was the cause of it.

III. Third question. Did said Coleman or not tell you that he had examined the farm and title to the same before trading with said complainant, and was still satisfied with the same, but that his wife was the sole cause of his endeavoring to repossess himself of the house and lot? If yea, state fully what he said.

Answer. So far as the examining the title is concerned, I cannot say positively that he said he had examined the title or not, but he stated to me, on two or three different occasions privately, after the above time, that he was perfectly satisfied with the trade; thought that he had made a good bargain, and should never have come back to take possession of that house if it had not been for his wife. He said he was satisfied with the trade in all respects.

IV. Fourth question. Do you know the farm which complainant exchanged with said Coleman, and also the house and lot on the Capitol Hill traded by said Coleman with said complainant? If yea, which, about the time
113 the trade was made, was, in your judgment, the most valuable?

Answer. I know the location of the farm; I have often passed and seen it on the main road. I also know the house and lot on Capitol Hill; have seen, passed, and been in it. I consider that the farm, at the time of the trade, was of far more value than the house and lot. I should not like the location of the house and lot; the neighborhood is not an agreeable one. The house, in my judgment, is built of very inferior materials, and the workmanship is not of a first-rate class, but is also inferior. It is some distance beyond, being several squares northeast of the Capitol, near the Bladensburg turnpike.

V. Fifth question. You state in your answer to the second question that Coleman handed complainant the key and regretted his conduct. Did he not, on that occasion, agree to pay the costs that complainant had been at before the justices, on the next day, and did one of his attorneys, Mahlon Ashford, esq., pledge his honor that he would pay the same for Coleman if Coleman did not?

Answer. Coleman did agree to pay the costs on the next day; it was arranged among the counsel for Coleman and Coleman and the justices
114 that the costs were to be paid, and Mr. Ashford became responsible for the payment. I was to call at Mr. Ashford's office the next day, in accordance with Mr. Ashford's instructions, and get the amount.

VI. Sixth question. Did you call at Mr. Ashford's office the next day, as requested, for the purpose of getting the costs, and receive the same from Mr. Ashford or Coleman?

Answer. I did call at his office, and was informed by him that Mr. Coleman had not left any funds to pay the costs, and he hid not feel authorized to pay them himself. I never received any costs from either Coleman or

Ashford, but I did receive my costs from justice Giberson, it having been left with him by Judge Purcell.

VII. Seventh question. Did not Coleman promise (on the night he promised to pay the costs and gave up the key as you have already stated) to call at the magistrate's office the next day for the purpose of having his fine reduced, he throwing the whole blame as to his conduct on his wife, and did not the justices agree to hear his application?

Answer. Yes, sir; I answer positively yes to all the interrogatories
115 in the question.

VIII. Eighth question. Did Coleman so call?

Answer. He did not, and after two or three days a commitment was placed in my hands by the justices for the purpose of enforcing their judgment. I am of the opinion that Coleman did treat the justices with a great deal of contempt. I committed Coleman to jail on the commitment.

IX. Ninth question. Did not the justices, on the day on which they sat in Coleman's case, at the time above referred to, wait at least two hours in the cold, indulging Coleman until he came down in the city and employed two counsel, and then hear all the evidence on both sides that was offered, before deciding the case?

Answer. Yes; we were called upon to go up there on this evening in question; we arrived there between two and three o'clock in the afternoon, and remained outside until about five o'clock for the purpose of Coleman's going after and employing counsel, and never attempted to enter the house until the arrival of Mr. Coleman and his counsel. The question was asked of Coleman if he was ready to go to trial; his reply was he was ready. The
116 justices then entered the house, and the trial of the case commenced. I never saw (and I have been on numerous cases of the kind) justices more lenient than in this case. The complainant was also very lenient.

X. Tenth question. Were you or not, a few weeks afterwards, at the same house and lot on Capitol Hill, present when a trial of forcible entry and detainer was had against Gilbert S. Minor for having entered the same house? If yea, state all that occurred in your presence on that occasion, with all the admissions of said Minor, in relation to the matter.

Answer. I was present on the occasion enquired of; we found Mr. Minor with other persons in the house, and a trial ensued between the complainant and said Minor and one Williams, who were convicted of forcible entry and detainer. Mr. Minor admitted, before the justices, that he found the house fastened up, and that he called a man, who was passing by, who was in the habit of mending locks and keys, and employed him to file a key to fit the lock of the door of the house, and with that key he entered and took charge of the house. Minor said the reason he had done so was that he or his wife had bought the premises from Mr. Coleman; that at the time he pur-
117 chased he knew all about the trade with Judge Purcell; that that trade was of no account, not worth anything, because Judge Purcell had never received any deed from Coleman.

XI. Eleventh question. Were there any witnesses examined on that trial as to the conduct of said Minor?

Answer. There were several witnesses examined who proved the fact on Minor.

(Signed) HENRY YEATMAN.

And I do further certify that I reduced to writing the foregoing testimony of said Henry Yeatman, as the same was given by him, in his presence, and he immediately thereafter, after having the same read over to him, signed the same.

And I do further certify that prior to the examination of the above-named

witness, William A. Wharton, esq., counsel for defendants, appeared and admitted service of notice to attend, but, desiring a continuance until to-morrow, which complainant, in view of the short time in which the testimony could be taken as by the order of the court, declined; agreed, in reply to complainant's offer, to be present at one o'clock p. m. And the witness having finished his examination in chief, remained for cross-examination until about three o'clock p. m., and no one appearing, to cross-examine
118 him, was allowed to depart; that I am not of counsel or attorney for either of the parties, and that I am not interested in the event of said cause.

Witness my hand and seal.

(Signed) WM. R. WOODWARD. [SEAL.]

Charles Walter, a competent witness, of lawful age, called to testify in behalf of the said Wm. F. Purcell, complainant in said cause, pending in the supreme court of the District of Columbia, appeared before me on this 21st day of August, A. D. 1863, 1½ o'clock p. m., between the hours of 9 o'c., a. m., and 6 o'c. p. m., at my office, in the City Hall, Washington City, in said county and District, and having been by me first carefully examined, cautioned, and sworn to testify the whole truth, did depose and say, in answer to the interrogatories propounded by the complainant in person, as follows:

I. First question. Were you the secretary of the Jackson Building Association on the 26th day of January, 1861?

Answer. I was, and am yet.

II. Second question. Is the notice, dated 26th January, 1861, signed by the complainant, directed to the president and directors of the Jack-
119 son Building Association, signed by you, as secretary of said building association, giving notice of complainant's purchase of the house and lot therein referred to, of James Coleman, and marked Exhibit B, a true copy of the original on record in your possession?

Answer. It is; the original is recorded among the minutes and proceedings of the building association.

III. Third question. Is your answer, sworn to on the 14th day of October, 1862, and filed in this cause, true as to the written notice of complainant on record in your possession as above stated, given by you to Gilbert S. Minor at the time therein stated in your said answer, and is your said answer true in all other respects?

Answer. What I have in that answer sworn to is true in all respects.

IV. Fourth question. Has the complainant, William F. Purcell, fully paid off the amount due to and demanded by the said building association, according to the obligation and deed of trust given said association by said James Coleman and wife?

Answer. The said building association has been fully satisfied by the complainant of all demands under said deed, and said deed of trust and
120 bond is for the benefit of said complainant?

V. Fifth question. What has become of said Coleman?

Answer. I do not know; I have not seen him for a long time; I do not think I have seen him for a year.

VI. Sixth question. Did said Coleman or Minor either ever pay one dollar towards discharging said deed of trust on said house to said buliding association?

Answer. Neither of them ever paid one dollar thereon after the notice referred to in the second question was given by complainant.

VII. Seventh question. Were you not instructed by said building association to have said property sold under said Coleman's deed of trust within the last two years, and would you not have felt compelled to have the same

sold, if complainant had not satisfied the said demand on said house and lot, due by said Coleman?

Answer. I was ordered to sell said property, and I so informed the complainant afterwards, on the filing by complainant of his bill of complaint. I advised the association not to sell.

(Signed) CHAS. WALTER.

121 And I do further certify that I reduced to writing the foregoing testimony of said Charles Walter, as the same was given by him, in his presence, and he, thereafter, after having the same read to him, signed the same in my presence. I do further certify that the complainant, William F. Purcell, (Wm. Redin, esq., being absent, from indisposition,) was present and propounded the interrogatories; that prior to the examination of the above-named witness, William S. Wharton appeared, admitted the notice; but complainant declining an adjournment until to-morrow, consented to be present at 1 o'clock p. m., at which time complainant agreeing, if no witness appeared before, to adjourn until to-morrow, but Mr. Wharton did not appear up to the time of adjournment, to wit, 5½ o'clock p. m., and said witness was not cross-examined; that I am not of counsel or attorney for either of the parties, and that I am not interested in the event of said cause.

Witness my hand and seal.

(Signed) WM. R. WOODWARD. [SEAL.]

Gilbert L. Giberson, a competent witness, of lawful age, called to testify in behalf of said William F. Purcell, complainant in said cause, pending in the supreme court of the District of Columbia, appeared before me, commissioner as aforesaid, on this 21st day of August, A. D. 1863, at 2 o'clock

122 p. m., being between the hours of 9 o'clock a. m. and 6 o'clock p. m. of said day, at my office, in the City Hall, Washington City, in the county and District aforesaid, and having been by me first duly and carefully examined, cautioned, and sworn to testify the whole truth, did, in answer to the hereinafter given interrogatories, propounded to him by said complainant in person, depose and say in words following, that is to say:

First question. Were you one of the justices who tried the case of forcible entry and detainer against James Coleman, and did you afterwards commit said Coleman to jail?

Answer. I was one of the justices who tried said case, and Justice Ferguson and myself afterwards committed said Coleman to jail for the non-payment of the fine.

Second question. How did said Coleman get out of jail? Please state all the facts in relation to his discharge.

Answer. He was discharged, as I am informed, by Judges Dunlop and Merrick under a writ of habeas corpus, without notice to the justices, the then district attorney, or to any one connected with the case, so far as I

123 was informed by the court on the Monday following the discharge, which was on Saturday, a very heavy snowy day. On that Monday morning I appeared in court and made a statement, stating that the proceeding was without a precedent in this District; that there was no notice to the justices or to the district attorney; that his honor Judge Dunlop was aware that Judge Cranch had required in every case that notice should be given to the district attorney, which had not been done in this case, and I denounced the facts set forth in the habeas corpus as a base and infamous libel on the justices who acted in this case. Judge Dunlap remarked that he supposed notice had been given to the district attorney.

Third question. Had not the same court some time previous refused to grant a writ of habeas corpus in a similar case, stating that all similar cases belong to the jurisdiction of a criminal judge?

Answer. That is my recollection in repeated criminal cases.

Fourth question. Have you ever known during the whole time of your being a member of the bar or a justice of the peace in the last thirty-
124 five years, in this District, a similar course pursued by the judges in any case that is an ex parte trial?

Answer. I have no knowledge of any such case.

(Signed) GILBERT L. GIBERSON.

And I do further certify that I reduced to writing the foregoing testimony of said Gilbert L. Giberson in his presence as he gave it, and he immediately thereafter, after having read the same, signed the same in my presence. And I do further certify that William A. Wharton, esq., counsel for defendant, was present before the examination of said witness and admitted notice and, (complainant declining to postpone the taking of depositions until to-morrow as requested by said Wharton, for the reason that the thirty days allowed for taking depositions had nearly expired,) agreed to attend at 1 o'clock, but did not appear up to the hour of 5½ o'clock p. m., to cross-examine said witness. I further certify that I am not of counsel or attorney for either of the parties and that I am not interested in the event of said cause.

Witness my hand and seal.

(Signed) WM. R. WOODWARD. [L. S.]

And no other witness appearing or being present for examination,
125 and the counsel for defendants not appearing, the further taking of depositions in said cause is at the request of the complainant adjourned until to-morrow, Saturday, the 22d day of August, A. D. 1863, at 9 o'clock a. m.

(Signed) WM. R. WOODWARD.

SATURDAY MORNING, *Aug't 22d*, 1863.

According to adjournment of yesterday afternoon the undersigned, William R. Woodward, commissioner, was present to take the depositions in the said cause.

William H. Langley, a competent witness, of lawful age, called to testify in behalf of the said William Purcell, complainant in said cause, pending in the supreme court of the District of Columbia, appeared before me on this 22d day of August, A. D. 1863, at 11 o'clock a. m., being between the hours of 9 a. m. and 6 o'clock p. m. of said day, at my office, in the City Hall, Washington City, in said county and District, and having been by me first duly and carefully examined, cautioned, and sworn to testify the whole truth, did, in answer to the interrogatories hereinafter given and propounded to him by said complainant, (Wm. Redin, counsel for complainant, being confined to his bed by sickness,) depose and say as follows:

First question. Were you acquainted with James Coleman, one of
126 the defendants in the above cause? If yea, when and how long have you known him?

Answer. Yes; I knew him as watchman at the Capitol. I knew him eight or nine years.

Second question. Did you or not have any conversation with him in relation to a trade of his, Coleman's, house and lot on Capitol Hill, on 3d and C streets, in this city, with the complainant, Judge Purcell, for a farm in Fairfax County, Virginia, near Bailey's Cross Roads, about the month of January, in the year 1861? If yea, state what he, said Coleman, said in relation to said trade.

Answer. I had such a conversation about that time, as near as I recollect. In the first conversation we had we were speaking in relation to his trade when he said he had traded with Judge Purcell his house and lot on Capitol Hill for the judge's farm in Fairfax County, Virginia, near Bailey's Cross Roads, (I don't recollect how many acres.) I now recollect that he had before told me he had written to the clerk of Fairfax County, Virginia, in relation to the title of the farm, and in the conversation afterwards he said he had got an answer from the clerk, and had then traded with the judge; that after he had received the letter from the clerk of the court of
127 Fairfax County, Virginia, he had made a final trade with Judge Purcell. In one of the frequent conversations he said he had examined the land, and seemed pleased with it. He spoke of what he was going to do on the land, about planting trees, &c., of the quantity of rock, out of which he could build a house. I never saw a man more pleased than he seemed to be with his trade.

Third question. Did you or not have any conversation with him after the trial had before the justices about his entering the house? If yea, state what he said.

Answer. Yes, I had. After hearing of the trial I had a conversation with him about it. He appeared to be still satisfied with the farm, but said his wife was not satisfied and would not agree to remain at the farm. He attached all the blame of coming back and entering the house to his wife.

W. H. LANGLEY.

And I do further certify that I reduced to writing the foregoing testimony of William H. Langley in his presence and word for word as he gave it, and that I then carefully read the same to him, whereupon he immediately
128 signed the same in my presence. And I do further certify that William A. Wharton, esq., counsel for defendants, admitted service of the annexed notice, but did not appear during the taking of depositions aforesaid, or at all during the day, but was present in the building. I further certify that I am not of counsel or attorney for either of the parties and that I am not interested in the event of said cause.

Given under my hand and seal.

(Signed) WM. R. WOODWARD. [SEAL]

No other witness appearing for examination, and William Redin, esq'r, counsel for complainant, desiring the propounding by the commissioner of one other question to Charles Walter, the said Charles Walter appeared and answered the said interrogations as dictated to the commissioner by said William Redin, neither party or their counsel being present.

Eighth question. Did you or not, after receiving the notice from complainant, concerning which you have testified, have any conversation with the defendant Gilbert L. Minor? If yea, please state what you said to him.

Answer. I did have a conversation with said Minor. Within a few days after the filing and recording of said notice said Gilbert L. Minor came to my office, where I kept the records of said building association, and
129 enquired in relation to the title of Coleman to said house and lot. I showed him my record and gave him a true statement in relation to the deed and said notice of complainant.

(Signed) CHARLES WALTER.

And I do further certify that I reduced to writing the foregoing deposition of Charles Walter and others as the same was given and uttered by him and them in his and their persons, respectively, and that he and they after having read to them by me their respective depositions signed each his own

deposition in my presence. And I do further certify that the service of the annexed notice by complainant on William A. Wharton was acknowledged by him to me, but that said William A. Wharton did not appear during the taking of said depositions or during the days of taking of the same, though in the building during said time. I do further certify that I am not of counsel or attorney for either of the parties and that I am not interested in the event of said cause.

And I do further certify that I have retained in my possession said depositions and that the same, with this certificate, is by myself sealed up, directed to "the supreme court of the District of Columbia," Wash-
130 ington City, District of Columbia, and by me delivered to the clerk's office of said court.

Witness my hand and seal this 24th day of August, A. D. 1863.

[SEAL.] WM. R. WOODWARD, *Commissioner.*

131 *Decree dismissing complainant's bill, Nov.* 3, 1863.—*Appeal to sup. c't, D. C., in gen'l term.*

WILLIAM F. PURCELL
v.
JAMES COLEMAN, GILBERT S. MINER, *et al.* } In chancery. No. 1,706.

The cause standing ready for hearing and being submitted, the counsel for the parties were heard and the proceedings read and considered. It is thereupon, this 3rd day of November, 1863, by Andrew Wylie, chancellor, and by the authority of this court, adjudged, ordered, and decreed that the bill of complaint of the complainant be, and the same is hereby, dismissed, and that the complainant pay the defendants their costs of this suit, to be taxed by the register; from which decree the complainant prays an appeal to the court in general term, which is allowed.

By order of the court.

132 *Decree sup. c't, D. C., gen'l term, confirming decree of Nov.* 3, 1863.

SATURDAY, *Mar.* 5, 1864.

WILLIAM F. PURCELL
vs.
JAMES COLEMAN AND GILBERT S. MINER AND WIFE. } Equity appeal. No. 1,706.

This cause comes on to be heard this day, and is argued by counsel, and thereupon, after consideration thereof, it is ordered, adjudged, and decreed that the decree pronounced by Mr. Justice Wylie, one of the justices of this court, sitting in equity, on the 3rd of November, 1863, and from which this appeal is prosecuted, be, and the same is hereby, in all things confirmed; that the bill be dismissed, and that the complainant pay to the defendants their costs by them about their suit expended, and that said defendants have execution thereof; from which decree the complainant prays an appeal to the Supreme Court of the United States, and the same is allowed upon his entering into a bond to prosecute said appeal, to be approved by the court, and thereupon the complainant offers his bond, with James McGuire and Richard Wallach as sureties, and the same is approved.

133 *Bond for appeal to the Supreme Court of the U. States, filed* , 1864.

Know all men by these presents that we, William F. Purcell, James McGuire, and Richard Wallach are held and firmly bound to James Coleman, Gilbert S. Miner, and Virginia A. Miner, his wife, in the full and just sum of two hundred and fifty dollars, current money of the United States, for

the payment of which, well and truly to be made to the said James Coleman, Gilbert S. Miner, and Virginia A. Miner, his wife, their heirs, executors, administrators, or assigns, we do hereby bind ourselves, our heirs, executors, and administrators, firmly by these presents.

In witness whereof, we have hereto set our hands and seals, at the city of Washington, in the District of Columbia, the ninth day of March, in the year one thousand eight hundred and sixty-four.

The condition of the above bond is such that whereas William F. Purcell has appealed to the Supreme Court of the United States from a decree of the supreme court of the District of Columbia, sitting in equity, on the suit wherein William F. Purcell is complainant and James Coleman, Gilbert S. Miner, and Virginia A. Miner, his wife, *et alii*, are defendants: Now, if the said William F. Purcell shall well and truly prosecute his said appeal and shall pay all such costs as shall be awarded against him, then these
134 presents to be utterly null and void; otherwise, to be and remain in full force and virtue.

WM. F. PURCELL. [SEAL.]
RICHARD WALLACK. [SEAL.]
JAMES McGUIRE. [SEAL.]

Signed and sealed in presence of—
FRANCIS ALONEY.

MARCH 12, A. D. 1864.

The foregoing bond allowed. Sureties are hereby approved.
D. K. CARTTER, *Chief Justice.*

135 *Compl't's petition for leave to file a bill of review, July* 15, 1864.

To the hon. judges of the supreme court of the District of Columbia, sitting in equity:

The petition of Wm. F. Purcell respectfully sheweth that on the 29th April, 1861, he filed his bill of complaint against James Coleman, Austin L. Adams, Gilbert S. Miner, Mary Virginia Miner, (his wife,) Charles Walter, secretary of the Jackson Building Association, Asbury Lloyd and Edwin C. Morgan, trustees of said association, in the circuit court of the District of Columbia, for Washington County, praying that the said Coleman may be compelled to convey to your petitioner a certain house and lot, and the deed executed by said Coleman to the said Gilbert S. Miner or Virginia A. Miner might be annulled, and such other and further relief as might be proper; and therefore the defendants Gilbert S. Miner, James Coleman, Edwin C. Morgan, Austin L. Adams, and Charles Walter, but the said Virginia A. Miner did not, answer, although duly notified by a publication of the substance of said bill of complaint under an order of publication passed by said court, and replication being filed to said answers, witnesses were examined and their depositions published, and it was afterwards so proceeded in that on the 3rd day of Nov., 1863, it was decreed by your honor-
136 able court that said bill of complaint be dismissed; from which decree your petitioner prayed an appeal to the court in banc, and the said decree was affirmed by said court in banc. All of which more fully appears by the proceedings in said cause, made a part thereof.

Your petitioner further sheweth that said last decree of affirmance was passed on the 5th March, 1864, and the same is signed and enrolled in this court; but your petitioner avers that said decree is erroneous, first, because the legal title to said house and lot was, by the conveyance of said Coleman, filed with his said answer, vested in the absent Virginia A. Miner,

against whom said order of publication duly passed, and the said cause was not ready for final hearing until a decree *pro confesso* had first passed against said absent defendant, Virginia A. Miner, and because it manifestly appears upon the depositions, record, and proceedings in said cause that said decree of dismissal ought not to have been affirmed.

And your petitioner further avers that said decree was erroneous and ought to be reviewed, because of the discovery of new matter since
137 the passing of said decree of affirmance, which could not by reasonable diligence have been produced or used by this petitioner at the time when said decree of affirmance was passed, which new matter is relevant and material to the matter in issue on said bill of complaint, and is such as if produced and raised might have occasioned a different decree of your honorable court.

Your petitioner further sheweth that he expects to prove by Margaret Scott, Patsy Wheeler, M. Duffy, and others, competent witnesses, that the said Coleman delivered the key of said house to your petitioner, who took possession thereof and expended money in repairing said house; and your petitioner also expects to prove the same facts by other competent witnesses, namely, John Collins and others. And your petitioner expects also to prove by Patsy Wheeler, M. Duffy, Margaret Scott, and others, that at the time the verbal agreement was made between him and said Coleman for the exchange of your petitioner's farm, near Bayley's Cross Roads, in Virginia, for said house and lot, your petitioner gave said Coleman an order on a certain James Wright, then on said farm, requesting him to deliver possession thereof to said Coleman, which order the said Coleman received
138 and had in his possession and did take possession of the said farm, and the contents of which your petitioner is now ready to prove. All of which newly discovered matters your petitioner is advised are material and proper to be proved with a view to a correct decision of said cause on its merits.

Wherefore your petitioner prays that he may have leave to file a bill of review touching the said decree of affirmance, and as in duty will ever pray.

ROBERT J. BRENT, *for Petitioner.*

DISTRICT OF COLUMBIA, *Washington County, to wit:*

Before the subscriber personally appears Wm. F. Purcell, the above petitioner, and made oath on the Holy Evangel of Almighty God that the facts related in the aforegoing petition are true, to the best of his knowledge and belief.

Sworn before me this 15th day of July, 1864.

Z. C. ROBBINS, *Reg'r of Wills.*

139 *Order July* 15, '64, *suspending proceedings under decree of affirmance, &c., provided copy be served on def'ts, &c.*

JULY 15th, 1864.

Ordered that the matter of the aforegoing petition stand for hearing on the first Tuesday of September next, and in the mean time that all proceedings under or by virtue of said decree of affirmance be, and the same are hereby, suspended, and that each party is authorised to take testimony before any justice of the peace, to be read at the hearing on giving the opposite party three days' notice, as usual, provided a copy of this order and petition be served on said James Coleman, or Gilbert S. Miner, or their solicitors, on or before the first day of August next.

By order of the court.

D. K. CARTER, *Chief Justice.*

July 15th, 1864.

Endorsement on copy petition and order.

I acknowledge service of the within petition and order of court, this 29th July, 1864.

WM. A. WHARTON, *Sol'r for Def'ts.*

140 *Compl't's depositions, taken under bill of review, filed Aug.* 6, 1864.

The following are depositions to be read on a petition filed in the supreme court of the District of Columbia, and in pursuance of an order of said court in equity, in which Wm. F. Purcell is complainant, James Coleman and Gilbert S. Miner are defendants, asking leave to file a bill of review, taken in pursuance of notice here appended, in the alderman's room, City Hall, within the time prescribed in said notice, this 13th September, 1864.

Deposition of Rob't Beale, esq.

1. Question by complainant to Colonel Robert Beale. Are you a member of the bar of Washington?

Answer. I am, but do not practice.

Question by same. Were you a member of the grand jury in the month of January, 1861, or not?

Answer. I was a grand juror, summoned in 1860, and served out the term, which I think terminated in 1861, which term expired, according to the record, on 1st February, 1861.

Question by same. Did an Irishman by the name of James Coleman come before the grand jury during the above-named term, on oath, for the
141 purpose of indicting Justices Giberson and Ferguson for having fined and committed him to jail a day or two previous?

Answer. I recollect that a man came before us whose name was Coleman, as well as I recollect. I inferred he was an Irishman from his talk. He came there to make complaint against two magistrates, who, I think, were Messrs. Giberson and Ferguson. The ground of his complaint was that he had sold his house on Capitol Hill to Judge Purcell, and had taken a farm from the judge in Virginia as payment, or, in other words, that he had traded; that he had given up the house to Judge Purcell, and had given him the key, and that he had taken possession of the farm, but his wife had objected to live on the farm. He said he had, in consequence of his wife refusing to live on the farm, returned to Washington and determined to repossess himself of the house; to effect which he got in at a back window of the house. He was fined by these magistrates, which fine he did not pay, and was committed by the magistrates. His object was to have the magistrates presented for their course towards him. The grand jury dismissed the case after hearing his complaint. And further this deponent saith not.

R. BEALE.

DISTRICT OF COLUMBIA, *City of Washington, ss:*

142 On the 13th day of September, A. D. 1864, the foregoing deposition of Col. Rob't Beale was duly taken, being first duly sworn according to law within the time prescribed in the notice, and at the place stated in said notice.

Sworn to and subscribed before me this 13th day of September, A. D. 1864.

JNO. H. JOHNSON, *Justice of the Peace.*

Also appeared General Peter F. Bacon, who being duly sworn according to law, that he was a member of the grand jury at the time said Coleman

appeared to prefer charges against the magistrates, and that he acted as secretary to said grand jury, and that the foregoing deposition of Col. Beale is true and correct to the best of his knowledge and belief.

PETER F. BACON.

Sworn and subscribed before me this 13th day of September, 1864.

JNO. H. JOHNSON, *Justice of the Peace.*

143 Continued this 13th day of September, 1864, until to-morrow, to commence within the hours in said notice.

JNO. H. JOHNSON, *J. P.*

Deposition of Wm. Gunton, esq.

Deposition of William Gunton, this 14th day of Sept., 1864, in pursuance of adjournment from yesterday until to-day.

JNO. H. JOHNSON, *J. P.*

1st question by complainant. Are you the president of the Bank of Washington?

Answer. I have been for the last twenty-nine years and still hold that position.

2d question by same. Were you or not foreman of the grand jury for the December term of the criminal court which commenced in December, 1860, and terminated on the first of February, 1861?

3d answer. I was during the above term.

4th by same. Did or not a man by the name of James Coleman appear before said grand jury during said term, on oath, to present Justices Giberson and Ferguson for having a day or two previous fined and committed him to jail? If so, please to state what the grounds of complaint against them was.

144 Answer. He did appear before the grand jury for the purpose of presenting said justices for having fined him and committed him to jail in default of payment of said fine. In his examination he testified that he had sold or exchanged a house and lot on Capitol Hill, a short time previous, to the Hon. Judge Purcell for a farm in Virginia, near Bailey's Cross Roads, and had delivered the key and possession of said house to said Purcell, and had taken possession of said farm by authority given him by said Purcell. A short time afterwards his wife becoming dissatisfied on the farm, he was induced to return and endeavor to repossess himself of said house and lot, and in order to effect his purpose, finding the house locked up, he entered the house through a back window of the second story, and continued to hold possession until the action of the magistrates above alluded to. After a patient hearing the jury dismissed the complaint as unworthy their notice.

5th question by same. Did you understand from him that the farm traded to him, said Coleman, by complainant, was the farm sold by Austin L. Adams to complainant, and contents of the same in the deed, marked Exhibit H, and made a part of this deposition?

farm's. 145 Answer. The deed mentioned in Exhibit H appears from its description to be the one mentioned by said Coleman as the one formerly belonging to Austin L. Adams, and which I have frequently seen, as I was, and am now, president of the turnpike road on which the farm is situated. And further this deponent saitheth not.

W. GUNTON.

DISTRICT OF COLUMBIA, *City of Washington:*

The aforegoing deposition of Doctor Wm. Gunton was taken, subscribed, first being duly sworn before me, the undersigned, according to law, within the time prescribed in the notice and the place designated in said notice, this 14th day of September, A. D. 1864.

[SEAL.] JNO. H. JOHNSON, *Justice of the Peace.*

146 *Exhibit to the deposition of Wm. Gunton, esq.*

This indenture, made and entered into this 11th day of August, in the year one thousand eight and sixty-four, between Austin L. Adams, of Charles County, in the State of Maryland, of the first part, and William F. Purcell, of the city of Washington, in the District of Columbia, of the second part. Whereas the said party of the first part did sell and convey in fee simple to the party of the second part, and deliver to him the possession thereof, a certain piece or parcel of land lying, situate, and being in the county of Fairfax, in the State of Virginia, set forth and described in a certain suit, in the supreme court of the District of Columbia, sitting in equity, wherein William F. Purcell, party of the second part, is complainant, and James Coleman, Gilbert S. Minor, and Virginia Minor, his wife, and others, are defendants; and whereas it appears in the proceedings had in said suit that the party of the second part had before that time, to wit, on the seventh day of June, in the year one thousand eight hundred and fifty-nine, paid to the party of the first part the sum of three thousand dollars in full consideration for the purchase of the said tract of land; and whereas the said deed was not placed upon record
147 in the clerk's office of Fairfax County, Virginia, in consequence of the disturbed condition of the country soon after that time, but was filed in the said suit, in equity, before recited; and whereas the said deed has been taken from the records of the said court of equity, or has been lost or mislaid; and whereas the party of the first part has been requested to execute another conveyance in fee simple to the party of the second part, which he does freely and voluntarily:

Now this indenture witnesseth that the said party of the first part, for and in consideration of the premises and the said sum of three thousand dollars, current money of the United States, to the said party of the first part in hand paid by the party of the second part, hath granted, bargained, sold, aliened, enfeoffed, released, conveyed, confirmed and delivered, and by these presents doth grant, bargain, sell, alien, enfeoff, release, convey, confirm, and deliver, unto the said party of the second part, his heirs and assigns forever, all his estate, right, title, interest, claim, and demand of, in, and to the tract of land set forth and de-
148 scribed in the proceedings in the before-recited suit, and especially in the deposition or affidavit of Smith Miner, filed in said suit, the said tract of land being situated in Fairfax County, in the State of Virginia, on the Columbian turnpike, leading from the Long Bridge across the Potomac River, at the city of Washington, to Fairfax Court-House, adjoining the lands of Caleb Reed, Captain Page, and Doctor Barcroft, and the dwelling-house on the said tract of land, being near the second toll-gate, and the said tract of land, containing about fifty-two acres. To have and to hold the above bargained and described premises, together with the dwelling-house, out-houses, improvements, and appurtenances thereon or thereto belonging or in anywise appertaining, to the party of the second part, his heirs and assigns forever. And the said party the first part covenants and agrees to and with the party of the second part, his heirs and assigns, that he has full right and lawful authority to sell and con-

appeared to prefer charges against the magistrates, and that he acted as secretary to said grand jury, and that the foregoing deposition of Col. Beale is true and correct to the best of his knowledge and belief.

PETER F. BACON.

Sworn and subscribed before me this 13th day of September, 1864.

JNO. H. JOHNSON, *Justice of the Peace.*

143 Continued this 13th day of September, 1864, until to-morrow, to commence within the hours in said notice.

JNO. H. JOHNSON, *J. P.*

Deposition of Wm. Gunton, esq.

Deposition of William Gunton, this 14th day of Sept., 1864, in pursuance of adjournment from yesterday until to-day.

JNO. H. JOHNSON, *J. P.*

1st question by complainant. Are you the president of the Bank of Washington?

Answer. I have been for the last twenty-nine years and still hold that position.

2d question by same. Were you or not foreman of the grand jury for the December term of the criminal court which commenced in December, 1860, and terminated on the first of February, 1861?

3d answer. I was during the above term.

4th by same. Did or not a man by the name of James Coleman appear before said grand jury during said term, on oath, to present Justices Giberson and Ferguson for having a day or two previous fined and committed him to jail? If so, please to state what the grounds of complaint against them was.

144 Answer. He did appear before the grand jury for the purpose of presenting said justices for having fined him and committed him to jail in default of payment of said fine. In his examination he testified that he had sold or exchanged a house and lot on Capitol Hill, a short time previous, to the Hon. Judge Purcell for a farm in Virginia, near Bailey's Cross Roads, and had delivered the key and possession of said house to said Purcell, and had taken possession of said farm by authority given him by said Purcell. A short time afterwards his wife becoming dissatisfied on the farm, he was induced to return and endeavor to repossess himself of said house and lot, and in order to effect his purpose, finding the house locked up, he entered the house through a back window of the second story, and continued to hold possession until the action of the magistrates above alluded to. After a patient hearing the jury dismissed the complaint as unworthy their notice.

5th question by same. Did you understand from him that the farm traded to him, said Coleman, by complainant, was the farm sold by Austin L. Adams to complainant, and contents of the same in the deed, marked Exhibit H, and made a part of this deposition?

farm. 145 Answer. The deed mentioned in Exhibit H appears from its description to be the one mentioned by said Coleman as the one formerly belonging to Austin L. Adams, and which I have frequently seen, as I was, and am now, president of the turnpike road on which the farm is situated. And further this deponent saitheth not.

W. GUNTON.

DISTRICT OF COLUMBIA, *City of Washington:*

The aforegoing deposition of Doctor Wm. Gunton was taken, subscribed, first being duly sworn before me, the undersigned, according to law, within the time prescribed in the notice and the place designated in said notice, this 14th day of September, A. D. 1864.

[SEAL.] JNO. H. JOHNSON, *Justice of the Peace.*

146 *Exhibit to the deposition of Wm. Gunton, esq.*

This indenture, made and entered into this 11th day of August, in the year one thousand eight and sixty-four, between Austin L. Adams, of Charles County, in the State of Maryland, of the first part, and William F. Purcell, of the city of Washington, in the District of Columbia, of the second part. Whereas the said party of the first part did sell and convey in fee simple to the party of the second part, and deliver to him the possession thereof, a certain piece or parcel of land lying, situate, and being in the county of Fairfax, in the State of Virginia, set forth and described in a certain suit, in the supreme court of the District of Columbia, sitting in equity, wherein William F. Purcell, party of the second part, is complainant, and James Coleman, Gilbert S. Minor, and Virginia Minor, his wife, and others, are defendants; and whereas it appears in the proceedings had in said suit that the party of the second part had before that time, to wit, on the seventh day of June, in the year one thousand eight hundred and fifty-nine, paid to the party of the first part the sum of three thousand dollars in full consideration for the purchase of the said tract of land; and whereas the said deed was not placed upon record
147 in the clerk's office of Fairfax County, Virginia, in consequence of the disturbed condition of the country soon after that time, but was filed in the said suit, in equity, before recited; and whereas the said deed has been taken from the records of the said court of equity, or has been lost or mislaid; and whereas the party of the first part has been requested to execute another conveyance in fee simple to the party of the second part, which he does freely and voluntarily:

Now this indenture witnesseth that the said party of the first part, for and in consideration of the premises and the said sum of three thousand dollars, current money of the United States, to the said party of the first part in hand paid by the party of the second part, hath granted, bargained, sold, aliened, enfeoffed, released, conveyed, confirmed and delivered, and by these presents doth grant, bargain, sell, alien, enfeoff, release, convey, confirm, and deliver, unto the said party of the second part, his heirs and assigns forever, all his estate, right, title, interest, claim, and demand of, in, and to the tract of land set forth and de-
148 scribed in the proceedings in the before-recited suit, and especially in the deposition or affidavit of Smith Miner, filed in said suit, the said tract of land being situated in Fairfax County, in the State of Virginia, on the Columbian turnpike, leading from the Long Bridge across the Potomac River, at the city of Washington, to Fairfax Court-House, adjoining the lands of Caleb Reed, Captain Page, and Doctor Barcroft, and the dwelling-house on the said tract of land, being near the second toll-gate, and the said tract of land, containing about fifty-two acres. To have and to hold the above bargained and described premises, together with the dwelling-house, out-houses, improvements, and appurtenances thereon or thereto belonging or in anywise appertaining, to the party of the second part, his heirs and assigns forever. And the said party the first part covenants and agrees to and with the party of the second part, his heirs and assigns, that he has full right and lawful authority to sell and con-

vey the said premises herein described. And that he, the said party of the first part, for himself and his heirs, the same will warrant and de-
149 fend to the party of the second part, his heirs and assigns, against the claim or claims of all manner of persons whatever, and the said party of the first part, for himself and his heirs, covenants, promises, and agrees to and with the said party of the second part, his heirs and assigns, that he and they, the said party of the first part, and his heirs, will at any future time make and execute any other and further conveyance that may be deemed necessary and requisite by counsel learned in the law.

In witness whereof, the said Austin L. Adams, party of the first part, hath hereto set his hand and affixed his seal, at the city of Washington, the day and year first before written.

[SEAL.] AUSTIN L. ADAMS.

Signed, sealed, and delivered in the presence of—
JNO. H. JOHNSON.
E. H. BATES.

150 DISTRICT OF COLUMBIA, *County of Washington, ss:*

Personally appeared before us, the undersigned, two of the justices of the peace in and and for the county and district aforesaid, on the sixth day of September, in the year of our Lord, one thousand eight hundred and sixty-four, Austin L. Adams, known to us as the party who executed the foregoing deed, and acknowledged that he had executed the same for the uses and purposes therein mentioned.

In witness whereof, we have *have* hereto set our hands, at the city of Washington, in the District and county aforesaid, the sixth day of September, in the year one thousand eight hundred and sixty-four.

EDGAR H. BATES, *J. P.* [SEAL.]
JNO. H. JOHNSON, *J. P.* [SEAL.]

I acknowledge the service of the within notice to take depositions as within set forth.

W. A. WHARTON, *for Def'ts.*

Sept. 9th, 1864.

151 *Compl't's depositions under bill of review, filed Sep.* 16, 1864.

The following are the depositions to be read on a petition filed by Wm. F. Purcell, complainant, and James Coleman and Gilbert S. Miner are defendants, asking leave to file a bill of review in the supreme court of the District of Columbia, sitting in equity, taken in pursuance of notice, and also in pursuance of an order of the supreme court of said District of Columbia, both of which are hereunto appended and made a part of the proceeding taken in alderman's room, City Hall, this 2nd day of August, 1864, within the time prescribed in said notice.

Question by Wm. F. Purcell, complainant, to Michael Duffy. Did you live in the beginning of the year 1861 on Capitol Hill? If so, please to state where.

The said Michael Duffy not being now present, the further taking of depositions in this cause are continued until to-morrow within the time prescribed in said notice.

JNO. H. JOHNSON, *Justice of the Peace.*

The above proceeding is adjourned till to-morrow, August 3rd, 1864, within the time prescribed in said notice to take testimony at said alderman's room.

JNO. H. JOHNSON, *Justice of the Peace.*

152 WASHINGTON CITY, D. C.,
Aldermen's Room, August 3rd, 1864.

Met in pursuance of adjournment from yesterday to this day. The deposition of Michael Duffy, esq., a competent witness taken in the foregoing cause within the time prescribed in said notice, and he being duly sworn.

1. Question by complainant, Wm. F. Purcell. Were you acquainted with James Coleman in January, 1861, and prior to that time? If so, were you on intimate terms with him, said Coleman?

Ans. Yes, I was; and was on intimate terms with said Coleman; lived near him on Capitol Hill, and saw each other nearly every day.

2. Question by the same. Do you know anything of a trade of his (Coleman's) house and lot on 3rd and C streets, Capitol Hill, with complainant, Wm. F. Purcell, for a farm in Fairfax County, Va., near Bailey's Cross Roads, about the time above referred to? If so, please state what you know about said trade.

Answer. I do know. Mr. Coleman told me about the time above
153 referred to that he had traded his said house and lot with complainant, Wm. F. Purcell, for said complainant's farm near Bailey's Cross Roads, as above stated, as an even trade—the house and lot for the farm; and that said Coleman said he had given said complainant, Wm. F. Purcell, possession of the house and lot; and that he (said Coleman) had, by proper authority given him by said Purcell, taken possession of said farm; he (said Coleman) subsequent to said trade said he had investigated the title to said farm, and was perfectly satisfied with the trade; and after the time of said trade, and after he (Coleman) told me of the trade, as just stated, I saw the said Wm. F. Purcell in possession of said house and lot, repairing the premises, which had been left in a state of dilapidation by said Coleman. I lived in the opposite corner from said premises at the time above stated.

3rd question by the same. Did you ever see said complainant, Wm. F. Purcell, and said Coleman together at said house and lot prior to the time when you were informed by said Coleman of the trade as having been made?

154 Answer. I did see the said Purcell and Coleman together at said house and lot about two weeks before the said Coleman told me of the trade.

4th question by the same. Were the said repairs above alluded to concluded previous to the time when you understood that said Coleman broke into said house to repossess himself?

Answer. They were.

5th question by the same. Did you at or about the time referred to (January, 1861,) hear said Coleman express any anxiety to dispose of his property for property in Virginia in order that he might leave this city?

Answer. I did hear him say that he wanted to trade his house and lot for a farm in Virginia because, in his opinion, property would be worthless in the city of Washington, assigning as a reason that he believed the South would capture the city of Washington, and that he would not be worth two cents.

5th question by the same. Did said Coleman leave Washington City and go to Alexandria, Va., or Fairfax County, Va., while the rebels occu-
155 pied Alexandria, Va., and Fairfax Co., Va?

Answer. I cannot say positively, but my impression is that Coleman did go to Alexandria or Fairfax Co. on or about the time mentioned in the last interrogatory.

6th question by the same. Does not said Coleman still reside in the State of Virginia?

Answer. I believe he does, for I have not known him to reside in Washington City since.

7th question by the same. How long has it been since you informed complainant, Wm. F. Purcell, that you could prove the foregoing facts?

Answer. About the first day of May last past, and that complainant remarked at the time that he (complainant) was sorry that he had not known his testimony before the cause had been tried, and this deponent and complainant met incidentally on the street.

156 8th question by the same. Where do you now reside?

Answer. I reside in my own dwelling on E street, between 8th and 9th streets, formerly occupied by Col. Wm. A. Linton.

9th question by the same. Did said Coleman give any excuse for returning and attempting to repossess himself as above stated after said trade?

Answer. The said Coleman said he was satisfied with the trade, but his wife did not like it, and would not remain with him on said farm.

And further this deponent saith not.

MICHAEL DUFFY.

Taken, sworn to, and subscribed before me this 3rd day of August, 1864.

JNO. H. JOHNSON, [SEAL.]
Justice of the Peace.

157 The deposition of Mrs. Margaret Scott, a competent witness, who being duly sworn according to law.

1. Question by complainant, Wm. F. Purcell, esq. Did you reside at the house of complainant in the months of December, 1860, and January, 1861?

Answer. I did.

2. Question by same. Do you know anything of an exchange of a farm in Fairfax County, Virginia, near Bailey's Cross Roads, owned by complainant with one James Coleman, for his house and lot on Capitol Hill, corner 3rd and C streets, about the time above referred to? If so, please state what you know about said exchange.

Answer. I do. In the early part of January, 1861, the said exchange between said complainant, Wm. F. Purcell, and the said James Coleman was consummated in my presence, and for weeks previous the said Coleman almost daily importuned the complainant, to the much annoyance of complainant's wife, to make said exchange. In consummating said exchange, which took place at complainant's house, the said Coleman delivered

158 to complainant the key of the house and wished him at the same time great luck and prosperity with the property. He (Coleman) had with him a letter from Alfred Moss, clerk of Fairfax County court, in relation to complainant's title to said farm, which the said Coleman stated was satisfactory to him. On the same occasion the complainant wrote and delivered to the said Coleman an order on a person by the name of Wright, who was then fencing on the said farm, which was in substance to deliver possession of said farm to said Coleman, as the farm was then his (Coleman's,) he having traded with complainant the house and lot on Capitol Hill, and had given him possession of the same.

3. Question by same. Do you know whether the said complainant, Wm. F. Purcell, thereupon took possession of said house and lot?

Answer. He did and retained possession for about two weeks, when I was informed the said Coleman had entered the house in the night time, the back way, 2nd story. I passed by the premises next day and saw a crowd, and was told Coleman was being tried for breaking into said house. The

159 day subsequent the said complainant, Wm. F. Purcell, resumed possession of said premises and has so held it, I believe up, to the present

time by having tenants in it, except one interruption by one Gilbert S. Miner, who entered the house with a false key, I think, about the month of March, 1861. My information in regard to Miner's entrance was obtained from personal observation in part, and said Miner's own admissions, having previously rented the said house from said complainant, receiving from him the proper keys, and had intended to move into said house the same day that Miner had possession of said house as it turned out, he having entered previous to said day, with said false key, which was not known to myself or complainant until the day I intended to move, as above stated.

4. Question by same. How long since you communicated the facts above to complainant?

Answer. Since the affirmance of the decisions of Judge Wylie by the appellate court. I first read in the "Star" the evidence in the cause as reported by Judge Wylie, as I was informed, and afterwards heard that the decision of Judge Wylie had been affirmed. I then being aware that
160 the true facts of the case were so much at variance with the evidence as published, informed the complainant that said evidence was so at variance, and told him my recollection of the facts.

And further this deponent saith not.

MARGARET SCOTT.

The deposition of John Collins, a competent witness, duly sworn according to law.

1. Question by complainant. Do you know anything in regard to an exchange of property by complainant and one James Coleman, an Irishman, made about the month of January, 1861? If so, please state all you know about it.

Answer. I do. I heard the said Coleman and Judge Purcell together speak and admit that said Purcell had exchanged to said Coleman a farm in Fairfax County, Va., near Bailey's Cross Roads, for Coleman's house and lot on Capitol Hill, at cor. of 3d and C streets. He (said Coleman) admitted full satisfaction for his said house and lot by having received said farm in exchange, and that he (Coleman) had delivered possession of the said house and lot to said Purcell, and that he had taken possession of said farm so delivered to him by said Purcell. This conversation between said par-
161 ties took place a short time after said exchange was made, on the premises or lot sold by said Coleman to said Purcell. I was at the time employed by, and at work for, the said Judge Purcell, to repair the said lot, which had been left in a bad condition by said Coleman having cut down the embankment for the purpose of getting the dirt. At the time said Coleman seemed to be delighted with his trade. I had the key of said house delivered to me by said Purcell at his (Purcell's) house, and slept in said house several nights, while at work as above stated. Further, I recollect said Coleman, in the conversation above referred to, said he meant to have a tavern on said farm in Virginia, and that his brother, on the following day, would take up a barrel of whiskey to said farm. Myself and two other hands were employed at said house and lot several days repairing the same, and believe the work so done and material used was worth one hundred dollars or upwards. Myself and hands were paid for the same work by said Purcell.

2d. Question by the same. Did the said Coleman state anything in explanation of why he was delighted with his trade? If so, what was it?
162 Answer. He (Coleman) did. He said President Lincoln would be inaugurated on the fourth of March, and that he (Coleman) would be dismissed the government service as watchman at the Capitol grounds, and that

he (Coleman) felt satisfied the South would capture and hold this city, and that he would have a farm in Virginia on the southern soil, and that the farm above described was valuable for farming purposes as well as for a tavern, he having examined said farm as to quality, and the title to the same, previous to trading.

3d. Question by the same. Do you recollect, when I asked said Coleman, in the conversation above referred to, what Mr. Wright, who was fencing for me on the farm, said when he (Coleman) showed him my written order to take possession of said farm, as it was then Coleman's?

Answer. I do recollect; he (Coleman) said that when he showed the said Wright the said order he (Wright) said it was all right, and that he (Coleman) stated that he told the said Wright that any work he did after that he (Coleman) was to pay for, and that he told Wright he was to stay
163 there in his employment and at his disposal from that time.

4. Question by same. Were you ever in the military service of the United States? If so, state when you entered it, and how long you continued in the same.

Answer. I entered the service of the United States on the 4th day of June, 1861, and continued there until a few months past.

5th. Question by same. Do you think it were possible for me to have taken your evidence while you were in the service of the United States?

Answer. I do not think it was possible, as I had but little spare time, being sometimes in Virginia, within the army lines, and at other times elsewhere.

6th. Question by same. Did I know that you could prove all the facts you have stated until within a few weeks prior to this time?

164 Answer. I think you did not, until within probably about a month past.

And further this deponent saith not.

JOHN J. COLLINS.

DISTRICT OF COLUMBIA, *City of Washington, ss:*

The foregoing depositions of Mrs. Margaret Scott and John J. Collins were duly taken, sworn to and subscribed before me, a justice of the peace for said county and District aforesaid, according to law, and at the place and within the time in said notice hereunto appended.

Given under my hand and seal this 3d day of August, 1864.

JNO. H. JOHNSON, *Justice of Peace.*

165 AUGUST 3, 1864.

Mrs. Margaret Scott recalled by complainant.

1. Question by complainant. At the time of the trade at complainant's house, already spoken of by you, between complainant and said James Coleman, was there anything said by the parties with regard to the preparation of the deed for the house and lot and the farm?

Answer. There was. The said Coleman requested complainant to prepare the deeds for the house and lot and the farm, to save expense, and complainant agreed to do so as soon as convenient, both parties on the particular occasion seeming to be in a hurry, both being public officers of government, the complainant being judge of orphans' court, and the said Coleman, as I understood, a watchman at the Capitol grounds. A few days afterwards I heard Judge Purcell, the said complainant, say that he had so prepared the deeds just referred to.

And further this deponent saith not.

MARGARET SCOTT.

Taken, sworn, and subscribed before me, the undersigned, a justice
166 of the peace, according to law, this day and date above written, as described in the notice and order of court at the place stated in the caption, the aldermen's room, City Hall.

JNO. H. JOHNSON, *Justice of Peace.*

167 To James Coleman and Gilbert S. Miner:

You will take notice that I shall proceed to take the depositions of Michael Duffy, and others, in the alderman's room, City Hall, Washington City, D. C., in a suit depending on a petition filed for a bill of review in the supreme court of the said D. C., in equity, in which I am complainant and you are defendants, said depositions to be taken on Tuesday, the 2d day of August next ensuing, between the hours of sunrise and sunset of said day, and will be continued from day to day, Sundays excepted, between the same hours, until completed.

Yours respectfully,

WM. F. PURCELL.

29th July, 1864.

Service acknowledged.

WM. A. WHARTON, *Sol. for Def'ts.*

July 29th, 1864.

168 *Order transmitting testimony to court in gen'l term, Sept.* 22, 1864.

WILLIAM F. PURCELL
vs.
JAMES COLEMAN, GILBERT S. MINER, *et alie.* } In equity.

The complainant in the above-entitled cause having presented to the consideration of the court the depositions of sundry witnesses taken since the decision of the suit by the court in banc, which depositions were taken under an order of this court, made and entered on the 15th day of July last, in support of a petition filed by said complainant, asking leave to file a bill of review, it being considered by the court that the question as to the leave to file a bill of review being properly cognizable by the court in banc, it is ordered that the said petition and the depositions taken under the aforesaid order be transmitted to the said court. And it is further ordered that the said depositions be read in the proceedings that may be had in the said cause.

By order of the court.

169 *Decree in general term, Oct.* 25, 1864.

WM. F. PURCELL
vs.
JAMES COLEMAN, GILBERT S. MINOR, VIRGINIA A. MINOR, and others.

On motion of Mr. Brent, complainant's application for leave to file a bill of review is submitted to the court without argument.

Decree in general term, Nov. 1, 1864.

WILLIAM F. PURCELL, complainant,
vs.
JAMES COLEMAN, GILBERT S. MINER, VIRGINIA A. MINER, and others.

This cause coming to be heard upon the petition of the complainant for leave to file a bill of review, and having been submitted to the court with-

out argument, it is, upon consideration thereof, ordered by the court that the petition be dismissed, and the leave prayed for denied, for the reasons stated in the opinion of Mr. Justice Olin. And from this order the complainant prays an appeal to the Supreme Court of the United States, and it is allowed.

Cost of copy record, $39 37.

R. J. MEIGS,
Clerk of the supreme court of the District of Columbia.

Filed December 10, 1864.

Supreme Court of the United States.

PURCELL *vs.* COLEMAN, MINER *at al.*

BRIEF OF APPELLANT'S COUNSEL.

The bill of Appellant shows that about the 10th January, 1861, he and the Defendant (Coleman) agreed to exchange certain real estate; that at that time Coleman delivered to the Appellant the key and possession of his house and Lot No. 4, in Square 782, in Washington city; that Coleman afterwards forcibly entered said house, and was fined under the statutes relating to forcible entries; that on the 9th March, 1861, Coleman contracted with Gilbert S. Miner to sell the same house, and executed a deed therefore to and in the name of Virginia C. Miner, the wife of Gilbert S. Miner, the said Gilbert well knowing at the time of said contract the equitable interest and possessory rights of the Appellant; that about the 27th March, 1861, Gilbert S. Miner, by procuring a false key, entered said house, and *was also convicted of forcible entry and detainer, under the Statute above referred to, and sent to prison.*

The bill further charges that Coleman had received the farm of the Appellant in Virginia, given in exchange as aforesaid, and that the Appellant had tendered him a deed according to contract; that the said farm had become depreciated by the neglect of said Coleman, and a barn had been destroyed.

The prayer is, that Coleman may be compelled to convey the house and lot; and that the deed to Gilbert Miner and Mrs. Virginia A. Miner may be annulled, and for general relief.

Record 1—3.

The bill also sets forth, and the exhibits establish an equitable assignment to the Complainant of a certain deed of trust on said house and lot; but these matters are irrelevant to the question of specific performance as against Coleman and his grantee, Mrs. Miner. Gilbert S. Miner's answer admits that on the 9th March, 1861, Coleman executed to his wife, Virginia C. Miner, a warranty deed for said house and lot, and admits that after the execution of said deed he took possession of said house by getting a locksmith to *furnish a key.* The answer wholly fails to deny notice of Complainant's equities and possession as set forth in the bill, and proceeds to impugn the validity of Complainant's title to the farm in Virginia.

Record 3—5.

The answer of Austin L. Adams very clearly shows the sufficiency of the Complainant's title to the farm in Virginia, and its freedom from liens.

Record, p. 5—7.
Record, p. 24.

Coleman's answer, filed 27th July, 1863, admits that in January, and prior to 24th January, 1861, he yielded the possession of said house and lot to the Complainant.

See his petition, filed as exhibit B, p. 27 of Record.

This answer further admits that Coleman re entered by unlocking a back door, and then seeks to cast doubts on the title of Complainant by new and affirmative matter.

General replication filed to said answer, and no proof adduced to sustain said answer.

Exhibit A to Coleman's answer is an unsworn letter of a Mr. Moss.

Record, p. 25.

Exhibit C to same answer is the deed of Coleman to Mrs. Miner, as her separate estate.

Record, p. 29.

Mrs. Miner (Coleman's grantee) never answered, but made default under the order of publication, &c., which required her to answer said bill by the first Monday of April, 1863.

Record 7 and 8.

The same order of publication required Coleman to answer at same time, but he did not answer until 27th July, 1863, and then under the conditions stated in the order of the Court, allowing the answer to be filed, and dismissing bill as to Walters.

Record 23—4.

It is abundantly proved that Coleman got possession of Judge Purcell's farm and was satisfied, but was induced by his wife to abandon it and reclaim the house and lot in Washington by making an illegal entry.

Mulloy's Evidence, Record, p. 9.
Giberson's Evidence, Record, p. 14.
Ball's Evidence, Record, p. 17.
McGraw's Evidence, Record, p. 19.
Yeatman's Evidence, Record, p. 34.
Langley's Evidence, Record, p. 39.

Read by consent, without exceptions.

That Gilbert Miner had notice of Complainant's title is proved by Yeatman.

Record, p. 35.

And by Walter's, who read to him before the sale the notice filed with Complainant's bill, B (in Record, p. 3.)

Walter's depositions.
Record, pages 39 and 36.

Upon this state of facts, and when the Complainant was clearly entitled to a decree *pro confesso* against Mrs. Miner, the recipient of Coleman's title, the Court dismissed the bill.

Record, p. 40.

And this decree being affirmed in general term, Appellant appealed and gave an approved bond.

Record 40 and 41.

The Statute of Frauds is not relied on or intimated in the answer of Defendants, but if it had been, it would not apply in this case.

For circumstances which take care of parol sale or exchange of land out of Staute of Frauds.

Dart on Vendors, 477—see Fry on Spec. Perform.
100 vol. Law Feb., 171, side.
" " 174, §§ 383–4, &c.
" " 180, §§ 397, 401
Butcher vs. Stapely, 1 Vern., 363.
Pyke vs. Williams, 2 Vern., 465.
9 Peters, 103.
1 Story's Eq., 759, &c.

The giving possession is part performance.

1 Story's Eq., § 765, note 1.
Stewart vs. Dent, (N. & S.,) 4 July, 1786.
Simmons vs. Hill, 4 H. & McH., 252, S. C. of Md.

The grounds of error are as follows:

1st. The possession being mutually given and taken by the parties entitled Appellant to specific performance of the agreement.

Boon vs. Chiles 10, *Peters* 177.

2d. Time was not of the essence of the contract, and it was enough that Purcell was ready to give a legal title when the deed to him was ready to be executed, and that he was ready. (See the deed of Adams to him.)

Record 45.
Brashier vs. Gratz, 6 *Wheat*, 528.
Taylor vs. Tongworth, 14 *Pet.*, 172.

That an exchange will be specifically decreed.

McIver, vs. Kyger, 3 *Wheat*, 53.

It is enough if the vendor has a good title at time of decree.

Hepburn vs. Auld, 5 *Cranch*, 262.

Complainant is ready to convey a good title at the hearing. See offer of Austin L. Adams in his answer, and this is sufficient. Record, p. 41.

1 Story's Eq., § 777.
Hepburn vs. Dunlop, 1 Wheat., 179.
Dart on Vendors, 211 & 209.

And the answer of Adams, the vendor of Purcell, filed October 28, 1862, long before the decree, shows his readiness and ability to give Purcell the legal title to the Virginia land.

Record, p. 5.

But, in truth, Purcell could be in no default until *Coleman's* title was ready to be *simultaneously* conveyed to him, and that never yet has been the case.

Record, p. 41.

After the decree of affirmance of the dismissal of the bill, Purcell

petitioned for leave to file a bill of review, and exhibited certain depositions in support of his application, which was newly discovered after the rendition of the decree, and of an important character. Margaret Scott (Record, pp. 48, 50) was present when the exchange was made with Coleman, and the admissions made by Miner. John J. Collins, (p. 49,) Michael Duffy, (p. 47,) who proved that money was spent on the improvement of the house and lot by the Appellant after the exchange, with the knowledge and consent of Coleman, before he attempted to repossess himself of the house in the night time.

Dr. Wm. H. Gunton, (p. 44,) Col. Robert Beall, (p. 43,) Gen. Peter Bacon, (43,) prove that a few days after Coleman's conviction by the Justices for attempting to repossess himself in the night time of said house and lot, he (Coleman) testified before these gentlemen, who were grand jurors, in order to present the Justices, in which he failed, that he (Coleman) had exchanged fairly with Appellant for the property in question, but that his wife had forced him to return and attempt to repossess himself of said premises.

Three years afterwards Coleman swears, in his answer to Appellant's Bill of Complaint, (drawn by Gilbert S. Miner, the co-defendant,) that he never made an exchange of said property.

The Court refusing to allow the bill of review, Appellant has also appealed from that order.

Record, p. 51.

We shall insist that there was error in this dismissal of Purcell's petition. The bill may be brought on new matter, discovered after affirmance of decree in Parliament.

Adams's Eq., p. 830, *top.*

And it seems for error of law in the Appellate Court after the decree is affirmed.

Southard vs. Russell, 10 *How.*, 547.

On review for new matter leave of Court is necessary, and can only be affidavit that new matter could not, by reasonable diligence, have been produced or used by applicant at time when decree was made, and showing that such new matter is relevent and material, either as evidence of matter formerly in issue or constituting a new issue, and is such as, if used, might have occasioned different decree.

Adams' Eq., 417, *side.*

Must aver that facts came to knowledge within period of appeal.

Precedent of petition, &c., 1 Bland, 504, and of bill, 2 Harrison's Chancery, 408.

4 Md. Ch. Dec., 190; 2 Md. Ch., 303; 5 Mass., 3[illegible]2.

Must set forth form of bill and proceedings; the decree and point of grievance and the ground of review; the leave and discovery of new matter since decree, and that it has not been carried into execution, and prayer that it may be reviewed and reversed in point complained of.

See 10 *How*, 547.

Respectfully submitted.

BRENT & MERRICK,
For Appellant.

Supreme Court of the United States.

DECEMBER TERM, 1866.

No. 135.

WM. F. PURCELL, COMPLAINANT AND APPELLANT,

vs.

JAMES COLEMAN, AUSTIN L. ADAMS, GILBERT S. MINER, VIRGINIA. A MINER, CHARLES WALTER, Secretary, &c., ASBURY LLOYD and EDWIN C. MORGAN.

BRIEF OF THE DEFENDANTS IN ERROR.

Supreme Court of the United States.

DECEMBER TERM, 1866.

No. 135.

WM. F. PURCELL, COMPLAINANT AND APPELLANT,

vs.

JAMES COLEMAN, AUSTIN L. ADAMS, GILBERT S. MINER, *et. al.*

BRIEF OF THE DEFENDANTS IN ERROR.

This cause comes up on an appeal from the judgment of the Supreme Court of the District of Columbia, dismissing the bill of the complainant, which prayed the Court to enforce the specific performance of a parol contract for an exchange of lands, alleged to have been made between the complainant and James Coleman, one of the defendants.

The bill of the complainant sets forth that, about the 10th day of January, 1861, he traded with Coleman a farm in Virginia, for a house and lot in the city of Washington; it being agreed that deeds therefor should be prepared at the reasonable convenience of the complainant; that the complainant did prepare a deed and tender it to Coleman, and had commenced to make improvements on said house in Washington City.

The answer of the defendant, Coleman, denies that he traded lands with the complainant, averring that he and the complainant had entered into negotiations looking to a trade in lands, and that while these negotiations were in progress, he let the complainant have one of the keys of his house in Washington, for the purpose of giving him an opportunity to examine said house, and thus judge its value, whilst he, Coleman, examined the farm in Virginia, for which it was proposed an exchange should be made; but that he, having found said farm encumbered, declined to trade with the complainant, who thereupon claimed that the trade had been completed, and refused to surrender the key of Coleman's house.

Still must we hear? Shall hoarse Declaimers bawl
Their stormy nullity through this reverend hall
Till echoes weary?

It was proved that Coleman, at sundry times and to various persons, stated that he had traded his house in Washington with the complainant, for a farm of the latter in Virginia. Here the plaintiff rested his case. No testimony was offered by the defendants.

The defendants maintain that the Court below did not err in their judgment dismissing the bill, upon the grounds following, viz:

1st. That the complainant proves no contract of exchange at all. The statements of Coleman, having led no party to act upon them, are, even if accurately remembered by witnesses, who did not charge their minds therewith, but loose and careless declarations, which, if they be evidence, are of little weight.

Starkie on evidence, vol. II, 24.
Flagg vs. Mann, II Sumner R. 486.

2d. That the contract proved to have been admitted by Coleman is too vague and uncertain to be enforced by a Court of equity.

Colton vs. Thompson, II Wheaton 336.
Hall vs. Hall, 1st Gill, 383.
Millard vs. Ramsdell, Harring, ch. 373.
McCue vs. Johnson, 25th Penn. Reports, 306.
Pintup vs. Mitchell, XVII Georgia R., 538.

3d. The complainant not being able to make a title free from encumbrance is not entitled to a decree for specific performance.

Morgan's heirs vs. Morgan et al, II Wheaton 290.

4th. That the contract set forth in the bill of complaint is *prima facie* within the statute of frauds, and that the acts of part performance alleged, are not sufficient to take the contract out of the statute.

Watts vs. Waddle, et al, VI Peters 389.
Caldwell vs. Carrington's heirs, IX Peters 86.
Brashier vs. Gratz, VI Wheaton 528.
Thompson vs. Todd, I Peters C. C. R. 380.
McKee vs. Philipps, IX Watts 85.
Young vs. Glendenning, VI Watts, 510.
Gaugwer vs. Fry, V Harris, 495.
Moore vs. Small, VII Harris, 461.

A FURTHER STATEMENT.

After the allowance of the appeal, as mentioned above, the complainants filed a petition praying leave to file a Bill of Review, alleging, as is true, that although Virginia A. Miner, one of the de-

te Dominante

fendants in this cause, had been summoned by publication properly made, and had not appeared, the Court had given judgment without a decree *pro confesso* having first been made against said Virginia A. Miner. and, also, upon the ground of alleged newly discovered evidence, which said leave having been refused, the complainant appealed therefrom to the Supreme Court of the United States, and his appeal was allowed, but no appeal-bond has been entered in the case. The defendants maintain that said appeal is not properly before the Court, because no bond has been filed in the Court below, and no security given to prosecute the appeal. If, however, said appeal is entertained, the defendants maintain that the Court did not err in refusing leave to file said bill of review, upon the grounds following, viz:

1st. Because it was the right of the complainant to have had entered on his motion, as of course, a decree *pro confesso* vs. Virginia A. Miner, (see 5th rule of the Supreme Court of the District of Columbia, Chancery, page 42,) and he cannot take advantage of his own neglect in the matter

2d. That the entry of a decree *pro confesso* against Virginia A. Miner was a merely formal proceeding, the neglect of which worked no injury to the complainant, and would not have altered the result of the cause;—being error in a matter of form merely, it is not sufficient ground for refusing a decree.

Mitford's chancery, 67.

Whiting vs. the Bank of the United States. XIII, Peters 6.

3d. That bills of review are grantable only when the evidence sought to be introduced and alleged to be newly discovered, came to the knowledge of the party after the final degree was made;—when such evidence is material, and when the Court is fully satisfied that the petitioner could not, by using reasonable diligence, have procured said evidence on the trial.

1st Eden, 25.

3 ~~III~~ Story, Equity Pleading 413.

Blake vs. Porter, II Mosely 237,

2 ~~II~~ John's Ch. R., 488.

3 ~~III~~ John's Ch. R., 124.

Young vs. Knight, XVI Vesey 353.

Certainly, of the testimony sought to be introduced, that of Duffy Beal and Gunton is in substance the verbal admissions of Coleman of the same character as those proved at the original hearing, differing

in nothing material, and therefore merely cumulative, and not admissible as grounds for a bill of review. The evidence of Collins, showing that he was employed by the complainant to make repairs to the value of one hundred dollars and upwards upon the house in Washington, alleged to have been exchanged, is clearly not newly discovered evidence, for if the complainant employed Collins to do the work, which is the subject of his testimony, it must have been known to him at the time of the original hearing The excuse is that Collins was in the military service of the United States; but it is nowhere shown that his deposition could not have been taken, or that any effort was made to secure it. The proposed evidence of Margaret Scott is clearly not newly discovered. It appears from her deposition that she was residing with the complainant, and heard, in the complainant's own residence, a contract for an exchange of lands made between the complainant and Coleman. It does not appear where she has been since. There is no allegation that she has not always been, as she now is, a member of the family of the complainant. Surely if complainant had traded with Coleman, he must, at the original hearing, have remembered the time, place, and circumstances of the trade, and might, without unusual diligence, have produced the member of his own family who could prove the making of the contract. To call Mrs. Scott's evidence, newly discovered evidence, is simply absurd. To review judgments upon the production of such testimony, would be to render litigation interminable.

GILBERT S. MINER,
For Defendants in error.